

Department of Construction Services
2013 Legislative Package

Priority	Title of Proposal
1	AAC School Construction Plan Review Costs
	AAC Construction-Manager-At-Risk (CMR) Project Delivery Contracts
	AAC State Construction Service Panels and Applicable Projects
	AAC On-Call Services for Consultants at DCS
	AAC General Services Administration Contracts and DCS (clarifies that DCS can utilize federal contracts)
	AAC Membership on Construction Service Award Panels
	AAC Contractor Change Orders & Unsubstantiated Claims
	AAC Prequalification Thresholds and the Prequalification Timing of Sub Contractors Relating to Capital Projects Administered by DCS
	AAC Classification Thresholds For Subcontractors
2	AAC Fire Official Certification
	AAC Consolidation and Operations of the Department of Construction Services (ancillary functions back to DESPP)
	AAC Special Effects

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

DCS1001SchoolConstructionPlanReviewCosts.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

Liaison: Terrence Tulloch-Reid

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Lead agency division requesting this proposal:

Bureau of Regulatory & Technical Compliance, Bureau of Building Design & Construction

Agency Analyst/Drafter of Proposal:

Terrence Tulloch-Reid

Kevin Kopetz

Title of Proposal

AAC School Construction Plan Review Costs

Statutory Reference

C.G.S. 10-287 (d)

Proposal Summary

The proposal would allow DCS project and technical staff to charge municipal school construction projects for payment of any administrative expenses for staff time allocated for school construction plan reviews and project management as outlined in Public Act 11-51 not to exceed one quarter of one percent of the total project costs.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Governor's consolidation Public Act 11-51 merged the State Department of Education school construction plan review and the existing DPW technical plan review units. However while the unit functions have been merged, work continues to be segregated. At present former SDE staff are supported by General Fund appropriations and the DPW staff are bond funded and their work is charged off on a project accounting basis, effectively preventing true staff integration.

The Plan Review Unit staff of the former Bureau of School Facilities would be augmented by DCS staff with similar skills and duties thereby reducing the backlog and waiting time for local school districts and municipalities to achieve design compliance and move projects forward to construction. The plan review process employed by the former BSF review staff requires an extensive review with the design professionals present. This process has proved extremely valuable in answering questions and holding down costs for the local school districts with respect to repetitive resubmissions by the design team to achieve compliance.

Local School Districts have often inquired regarding the schedule for reviews and whether some attempt at acceleration could be applied particularly during "busy" times of the year during the formulation of the Priority School List.

If staff of the new DCS were allowed to charge some of their costs to school construction bond funds, as is the current DPW practice for capital construction projects, the staff could be truly integrated and work interchangeably. This aligning of services would also allow DCS to begin to mitigate the revolving fund deficits and better control agency operating costs.

Legislative precedent

DCS (former DPW) employees have always been allowed to charge state capital projects for personal service costs as outlined in a bond act covenant as an allowable capital expense.

Special Session 2012

Section 202 b) of Public Act 12-1 from June 12, 2012 Special Session included language on behalf of the Department of Economic and Community Development (DECD) "Small Business Express" to charge "4 %" of bond funds for administrative functions.

"(b) The Commissioner of Economic and Community Development may provide for the payment of any administrative expenses or other costs incurred by the department or its lender partners in carrying out the purposes of the Small Business Express program not to exceed four per cent of funding from this program from the account established pursuant to subsection (a) of this section."

* Utilization of one-quarter of one percent of school construction grant bond funds would enable DCS to fund three auditors and the four technical reviewers without using general funds. There is presently no direct authority for utilization of school construction grant funds and no reimbursement mechanism for the hundreds of DCS staff hours spent supporting school construction functions. Costs recognized as properly capitalized in state construction projects.

If capitalization language is not preferred; DCS would request additional General Fund appropriations to address the additional time DCS staff are spending on school construction projects.

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) Have certain constituencies called for this action?*
- (4) What would happen if this was not enacted in law this session?*

• **Origin of Proposal** **New Proposal** X **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package? Language was discussed with Karen Buffkin late in the 2012 session. However, due to the short session and condensed time-frame—no language was agreed to or pursued in Special Session.*
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? No*
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? DCS, SDE, OPM*
- (4) What was the last action taken during the past legislative session? Only discussions with*

OPM

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Bureau of School Facilities, State Department of Education

Agency Contact (name, title, phone): Paige Farnham, BSF

Date Contacted: September 27th

Approve of Proposal ☐ YES ☐ NO ☒ X Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ☒ X YES ☐ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

Cost neutral

Minimal charges to school construction funds to account for DCS staff time on these projects not to exceed ¼ of 1%. However, with local school districts and municipalities battling with their own tight budgets, the state's involvement in plan reviews allows municipalities to reduce or in many cases eliminate cost of hiring a third party to review those documents while better educating the town's local authorities on the state process.

State

Savings

Within the past fiscal year, the Local School Construction Grant Program supported over 195 projects and approximately \$318 million in state money. The integration of the former DPW

Technical Services staff (Code and Environmental), DPW Project Managers and the former Bureau of School Facilities and Grants review staff has generated synergies.

Over the years, the Bureau of School Facilities and Grants review staff was reduced in size, but the workload remained. This led to staff taking on additional responsibilities and responding to changing environmental, code, and construction laws.

With the integration of technical staff, some of these responsibilities have been reassigned to former DPW technical staff who were conducting the same type of reviews and processes for state construction projects.

This has produced a number of benefits for the 1) local school construction plan review, 2) site analysis and approval, and 3) environmental permitting processes.

The former DPW environmental review processes have led to quicker approvals through regulatory agencies while working within a project's schedule and eliminating environmental costs during construction.

In addition the shared expertise has mitigated the need to address the understaffed Bureau of School Facilities and Grants with additional staffing.

The integration of former DPW Project Managers with the Bureau of School Facilities and Grants staff is allowing a cross-sharing of policies and procedures in the areas of change orders and project closeouts. The purpose of this cross-sharing should make the processes not only more predictable, but result in cost savings.

The assessment of change-orders and allowances and the completion of project close out in a timely manner will save the State several millions of dollars on its bonded liability for those projects and ultimately the tax payer.

In the areas of "site analysis" and "site approvals" for local school projects, the "shared" knowledge and experience has led to the identification of site issues in the advance of design, allowing for quicker site approvals, and a reduction in paper work for the local school districts. Within the next few months, technical staff will work together and apply needed efficiencies in the information gathering process and revised forms. The goal is to provide a simplified process to add a level of predictability/familiarity for the towns, as well as identifying potential design and construction issues that can lead to project delays and cost overruns.

Federal

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This allowable charging to municipal projects will help DCS staff account for their hundreds of hours being spent on municipal projects. Currently DCS project and technical staff have no ability to be reimbursed for that time. SDE staff is general funded. DCS employees are bond funded.

DCS ,SDE and CORE-CT employees would identify appropriate staff for this “project costing” and all that is needed is to get projects created on the CORE-CT financial side; followed by assigning the appropriate employees to those projects.

This concept would make costs incurred in the review and approval of school construction grants payable out of the grant bond funds. This will enable DCS to maximize resources and achieve the intended integration of former DPW construction staff (now funded with construction bond funds) with Bureau of School Construction staff who are general funded, and enable us to assign staff on a cross project basis

We are currently anticipating delays in approving and closing out the school construction projects.

Insert fully drafted bill here

- This language reflects discussions from last session amongst Kevin Kopetz(DCS), Paige Farnham (SDE), and Karen Buffkin (OPM)—no decisions had been made by OPM as of Special Session (June)

Sec. 10-287d. Bond issue for school building project grants. For the purposes of funding (1) grants to projects that have received approval of the Department of Construction Services pursuant to sections 10-287 and 10-287a, subsection (a) of section 10-65 and section 10-76e, (2) grants to assist school building projects to remedy safety and health violations and damage from fire and catastrophe, [and] (3) regional vocational-technical school projects pursuant to section 10-283b, and (4) the costs incurred by the department to review and approve, as applicable, school building project plans and applications for school building grant funds and to audit school building projects pursuant to this chapter, the State Treasurer is authorized and directed, subject to and in accordance with the provisions of section 3-20, to issue bonds of the

state from time to time in one or more series in an aggregate amount not exceeding nine billion one hundred forty-five million nine hundred sixty thousand dollars, provided five hundred eighty-four million dollars of said authorization shall be effective July 1, 2012. Bonds of each series shall bear such date or dates and mature at such time or times not exceeding thirty years from their respective dates and be subject to such redemption privileges, with or without premium, as may be fixed by the State Bond Commission. They shall be sold at not less than par and accrued interest and the full faith and credit of the state is pledged for the payment of the interest thereon and the principal thereof as the same shall become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due. The State Treasurer is authorized to invest temporarily in direct obligations of the United States, United States agency obligations, certificates of deposit, commercial paper or bank acceptances such portion of the proceeds of such bonds or of any notes issued in anticipation thereof as may be deemed available for such purpose.

Sec. 10-287e. School Building Construction Fund. All moneys received by the state in payment of the principal of and the interest on bonds purchased and held by the state under the provisions of section 10-287b of the 1969 supplement to the general statutes, together with all net earnings on the temporary investment thereof, shall comprise a fund to be designated "School Building Construction Fund" and the moneys in said fund shall be used (1) to pay the principal of and the interest on bonds issued by the State Treasurer under sections 10-287d and 10-292k, and of notes, to the extent not paid by renewal notes, issued in anticipation of the receipt of the proceeds of such bonds[.]; and (2) to pay costs incurred by the department to review and approve, as applicable, school building project plans and applications for school building grant funds and to audit school building projects pursuant to this chapter.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc)

1002DCSCConstructionManageratRisk(CMR)Delivery Contracts.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

Liaison: Terrence Tulloch-Reid

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Lead agency division requesting this proposal: Bureau of Design and Construction

Agency Analyst/Drafter of Proposal:

Kevin J. Kopetz

Title of Proposal

AAC Construction Manager at Risk Project Delivery Contracts

Statutory Reference C.G.S. 4b-103

Proposal Summary:

This proposal addresses issues arising from renovation projects in existing and/or occupied buildings, and will allow for more timely , efficient completion and an anticipated reduction in project costs.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

(5) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*

(6) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Unknown*

(1) *Have certain constituencies called for this action? Yes, the professional construction manager firms who utilize the provisions being proposed on private sector projects.*

(7) *What would happen if this was not enacted in law this session?*

In the absence of this section, projects will require extended schedules that result in higher costs to the state.

- **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

If this is a resubmission, please share:

- (5) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (6) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (7) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (8) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Not applicable

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal ___ YES ___ NO ___ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ___ YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

None

State – The proposal should result in a decrease in total project construction costs on renovation projects of existing state-owned buildings and facilities because DCS will be in a position to have the CMR prepare the site prior to the completion of the “guaranteed maximum price” (GMP) process. Upon obtaining the GMP the CMR can coordinate and direct

the interior work. Allowing earlier work should prevent delays.

Federal

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This proposal should have positive programmatic impacts by reducing renovation project schedules and construction costs as well as allowing the agency to advance new projects in a more efficient, effective, and timely manner.

Insert fully drafted bill here

Section 4b-103. Construction manager at-risk delivery contracts. (a) In order to carry out any provision of this title for the construction, renovation or alteration of buildings or facilities, the Commissioner of Construction Services may enter into a construction manager at-risk project delivery contract.

(b) The Commissioner of Construction Services shall not enter into a construction manager at-risk project delivery contract that does not provide for a maximum guaranteed price for the cost of construction that shall be determined not later than the time of the receipt and approval by the commissioner of the trade contractor bids. Each construction manager at-risk shall invite bids and give notice of opportunities to bid on project elements, [by advertising, at least once, in one or more newspapers having general circulation in the state] on the DAS Contracting Portal. Each bid shall be kept sealed until opened publicly at the time and place as set forth in the notice soliciting such bid. The construction manager at-risk shall, after consultation with and approval by the commissioner, award any related contracts for project elements to the responsible qualified contractor submitting the lowest bid in compliance with the bid requirements, provided (1) the construction manager at-risk shall not be eligible to submit a bid for any such project element, and (2) construction shall not begin prior to the

determination of the maximum guaranteed price, except for the project elements of site preparation and demolition that have been previously put out to bid and awarded.

(c) (NEW) Notwithstanding the provisions of subsection (b), construction may begin prior to the determination of the maximum guaranteed price for the project elements of site preparation, demolition, public utility installation and connections, and building envelope components including the roof, doors, windows and exterior walls, provided (1) the project is the renovation of an existing building or facility, and (2) the project element or elements involved in such early work have been previously put out to bid and awarded.

(d) (NEW) Notwithstanding the provisions of subsection (b) if the project involves the renovation of an existing building or facility that will be performed in multiple phases while the building or facility remains occupied, the commissioner of construction services may enter into a construction manager at-risk delivery contract that provides for the determination of the maximum guaranteed price in phases. All other provisions of subsections (b) and (c) shall apply to such projects.

Agency Legislative Proposal - 2013 Session

- **Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):
DCS1003DCSConstructionServicePanels.

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

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Lead agency division requesting this proposal:

Bureau of Building Design & Construction

Agency Analyst/Drafter of Proposal:

Roberta Avery

Title of Proposal

AAC State Construction Service Panels and Applicable Projects

Statutory Reference

C.G.S. 4b-56

Proposal Summary

Section 4b-56 gives DCS the statutory authority to oversee the State construction services

selection panels, and Connecticut Health and Education Facilities Authority construction services panels.

Subsection 4b-56(a) provides there shall be established within the Department of Construction Services state construction services selection panels which shall consist of five members. Four of such members shall be appointed by the commissioner, shall serve only for the deliberations involving the project for which such members are appointed, and shall be current or retired employees of the Department of Construction Services. The remaining member shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which such member is appointed. The panels required for the Connecticut Health and Education Facilities Authority projects are similar, but not identical.

Subsection 4b-5(c) provides there shall be established within the Department of Construction Services Connecticut Health and Education Facilities Authority construction services panels which shall consist of five members. Three of such members shall be appointed by the Commissioner of Public Works, shall serve only for deliberations involving the project for which such members are appointed and shall be current employees of the Department of Construction Services. The remaining members shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which such members are appointed.

DCS would like the full panel activities to only pertain to projects estimated at more than \$5 million dollars. For smaller projects, DCS would like to reduce the panel membership to 3 members—Two (2) DCS current or retired employees and one (1) from the client agency.

In addition, DCS would like a reduction in the panel membership from 5 members to 3 members for on-call contracts in subsection 4b-56(e).

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

(1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?* No

(2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?* Massachusetts has implemented a full time independent staff to

undertake this duty. Ohio has implemented a similar 3 person panel for small projects.

(3) *Have certain constituencies called for this action?* No

(4) *What would happen if this was not enacted in law this session?*

DCS staff would continue to attend numerous panels on projects at the current dollar thresholds.

Department of Construction Services projects staff took the list of current projects and our calculations indicate the following:

- 61% of these projects are under \$5,000,000 (some of these might be Agency Administered (AA) projects, but are being administered by the teams).
- This reflects 137 total projects, 87 of which could save: ***87 projects x 2 staff members x 14 hours/year, resulting in the conservative number of 2,436 hours*** that can be used for more productive time on our project management. (This estimate does not include the time savings by also reducing the on-call panel members.) DCS believes that this staff time could be more effectively utilized monitoring on-going projects as opposed to participating on panels for smaller projects which exhaust staff resources, and create overruns on smaller projects operating budgets since DCS fees can be as much as 8-9% of the total allocation, making this very problematic for less expensive projects.
- With a lean staff, DCS is providing over 140 hours per individual each year to these selection panels. For small projects we believe that a smaller panel will be able to provide the same service with the same quality and more efficiency. This reduction will increase the effectiveness of the use of DCS staff and reduce the time away from their primary functions.

- **Origin of Proposal** X **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work*

on this legislation?

(4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

DCS does not anticipate any negative effect on client agencies in its requirement for oversight and action. This proposal just controls the non-billable time for most bond fund employees.

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal ___ YES ___ NO ___ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ___ YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

No

State

No

Federal

No

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

DCS staff time will be more effectively utilized on core duties. This is particularly important given the significant increase in projects anticipated to be bonded, designed, and under construction over the next several years.

Insert fully drafted bill here

Sec. 4b-56. (Formerly Sec. 4-134b). State construction services selection panels, and Connecticut Health and Education Facilities Authority construction services panels, established. Membership. (a) There shall be established within the Department of Construction Services state construction services selection panels which shall consist of five members. Four of such members shall be appointed by the commissioner, shall serve only for deliberations involving the project for which such members are appointed, and shall be current or retired employees of the Department of Construction Services. The remaining member shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which such member is appointed.

(b) The selection panels shall not be deemed to be a board or commission within the meaning of section 4-9a.

(c) There shall be established within the Department of Construction Services Connecticut Health and Education Facilities Authority construction services panels which shall consist of five members. Three of such members shall be appointed by the Commissioner of Construction Services, shall serve only for deliberations involving the project for which such members are appointed and shall be current employees of the Department of Construction Services. The remaining members shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which such members are appointed.

(d) The panels established pursuant to subsection (c) of this section shall not be deemed to be a board or commission within the meaning of section 4-9a. Such panels shall be the

selection panels only for Connecticut Health and Education Facilities Authority projects pursuant to section 10a-89b.

(e) There shall be established, within the Department of Construction Services, a State Construction Services Selection Panel that shall consist of ~~[five]~~ three members. Such members shall be appointed by the commissioner, shall be current employees of the Department of Construction Services or any agency for which consultant services may be contracted, and shall serve only for deliberations involving the selection of consultants under subsection (d) of section 4b-51 for which the employees are appointed.

(f) The panel established pursuant to subsection (e) of this section shall not be deemed to be a board or commission within the meaning of section 4-9a.

(NEW) (g) for projects under \$5,000,000.00 selection panels will consist of three members. Two of such members shall be appointed by the commissioner, shall serve only for the deliberations involving the project for which such members are appointed, and shall be current or retired employees of the Department of Construction Services. The remaining member shall be appointed by the head or acting head of the user agency and shall serve only for deliberations involving the project for which such member is appointed.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

DCS1004On-call Consultant Contracts-special programs.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

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Lead agency division requesting this proposal:

Bureau Of Building Design and Construction

Agency Analyst/Drafter of Proposal:

Kevin Kopetz

Roberta Avery

Terrence Tulloch-Reid

Title of Proposal **Clarification as to the Use of the On-call Statute**

AAC On-Call Services For Consultants at the Department of Construction Services

Statutory Reference

C.G.S. 4b-51(d)

Proposal Summary

DCS proposes to clarify the intent of the consultant on-call statute to allow its use in those instances where DCS intends to limit the use of certain on-call consultants and consultant contracts to a particular or special program involving the construction of new buildings, or renovations of existing buildings, under the care and control of a single client agency.

In the interest of providing flexibility and an efficient method of procuring design professional and other consultant services, DCS seeks confirmation in the statute to have the ability to enter into on-call contracts with consultants whose assignments will be limited to a program involving a single client agency with various projects for the construction of new buildings or renovations to existing buildings.

As is the policy for other DCS on-call contracts, the on-call contract dedicated for a single agency's program will stipulate a maximum amount for the aggregate value of all of the task letters issued pursuant to the on-call contract and a period of months for the contract term. This clarification to the statute will affirm that DCS may use on-call contracts and task letters issued pursuant to the on-call contracts for this purpose, instead of being required to use a fixed fee consultant contract and amending the fixed fee contract each time the client agency has a need to address an additional project. This method of procuring design professional services for multiple projects is a more time efficient method.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (2) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*
- (3) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Unknown*
- (4) *Have certain constituencies called for this action?*
- (5) *What would happen if this was not enacted in law this session?*

- **Origin of Proposal** X **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (5) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (6) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (7) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (8) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Military Department Date Contacted: Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? <input type="checkbox"/> YES <input type="checkbox"/> NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) No
State No
Federal No
Additional notes on fiscal impact The DCS project manager responsible for military department projects has indicated that the inability to procure design professional services without delay could be detrimental to our state's ability to obtain federal funding for a program that covers numerous projects under the care and control of that agency. Federal funds must be committed within a specific federal fiscal year.

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This clarification has the potential for DCS and the State military department to obtain more federal funding for Connecticut military projects in a program where states effectively compete for the funding that is available within a specific federal fiscal year.

Insert fully drafted bill here

Sec. 4b-51. (Formerly Sec. 4-131). Alterations, repairs or additions to real assets. Selection of consultants for certain projects. (a) The Commissioner of Public Works shall have charge and supervision of the remodeling, alteration, repair or enlargement of any real asset, except any dam, flood or erosion control system, highway, bridge or any mass transit, marine or aviation transportation facility, a facility of the Connecticut Marketing Authority, an asset of the Department of Agriculture program established pursuant to section 26-237a, or any building under the supervision and control of the Joint Committee on Legislative Management, involving an expenditure in excess of five hundred thousand dollars, and except that (1) the Judicial Branch may have charge and supervision of the remodeling, alteration, repair, construction or enlargement of any real asset involving an expenditure of not more than one million two hundred fifty thousand dollars, (2) each constituent unit of the state system of higher education may have charge and supervision of the remodeling, alteration, repair, construction or enlargement of any real asset involving an expenditure of not more than two million dollars, and (3) The University of Connecticut shall have charge and supervision of the remodeling, alteration, repair, construction, or enlargement of any project, as defined in subdivision (16) of section 10a-109c, notwithstanding the amount of the expenditure involved. In any decision to remodel, alter, repair or enlarge any real asset, the commissioner shall consider the capability of the real asset to facilitate recycling programs.

(b) No officer, department, institution, board, commission or council of the state government, except the Commissioner of Public Works, the Commissioner of Transportation, the Connecticut Marketing Authority, the Department of Agriculture for purposes of the program established pursuant to section 26-237a, the Joint Committee on Legislative Management, the Judicial Branch or a constituent unit of the state system of higher education as authorized in subsection (a) of this section, shall, unless otherwise specifically authorized by law, make or contract for the making of any alteration, repair or addition to any real asset involving an expenditure of more than five hundred thousand dollars.

(c) The plans necessary for any such remodeling, alteration, repair or enlargement of any state humane institution, as defined in section 17b-222, shall be subject to the approval of the administrative head of such humane institution.

(d) Notwithstanding any provision of the general statutes, the Commissioner of Public

Works may select consultants to be on a list established for the purpose of providing any consultant services. Such list shall be established as provided in sections 4b-56 and 4b-57. The commissioner may enter into a contract with any consultant on such list to perform a range of consultant services or to perform a range of tasks pursuant to a task letter detailing services to be performed under such contract. As used in this subsection, "consultant" means "consultant" as defined in section 4b-55, and "consultant services" means "consultant services" as defined in section 4b-55. Notwithstanding any provision of the general statutes, a list of consultants may be selected for contracts that will be used for the limited purpose of a particular program involving various projects for the construction of new buildings, or renovations to existing buildings, that are under the operation and control of a single user agency.

(e) Costs for projects authorized under subsection (b) of this section shall be charged to the bond fund account for the project for which such costs are incurred. The Department of Public Works shall develop procedures for expediting the administration of projects for alterations, repairs or additions authorized under said subsection (b).

(f) Any state agency proposing to remodel, alter or enlarge any real asset shall submit a statement to the commissioner demonstrating the capability of the real asset to facilitate recycling programs.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc)

DCS1005GeneralServiceAdministrationContracts.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

Liaison: Terrence Tulloch-Reid

Phone: 860-713-5085

E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal: Bureau of Design and Construction

Agency Analyst/Drafter of Proposal: Kevin J. Kopetz

Title of Proposal AAC Purchasing from Federal Contractors for Installation of Pre-Fabricated and Pre-Engineered Buildings.

Statutory Reference 4b-91(k)

Proposal Summary: The state, through the Commissioner of Administrative Services, may purchase equipment, supplies, materials, informational technology services or other property or services from persons holding a contract with the federal government. See 4a-66(b). The contracts include pre-fabricated, pre-engineered buildings. The proposal would make clear that DCS may use these contracts without the formal bidding procedures. This allows for more efficient, experienced construction on-time sensitive projects, particularly military projects that have strict timeliness for utilizing federal funds.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

(6) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*

(7) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Unknown*

(8) *Have certain constituencies called for this action? CTMD*

(9) *What would happen if this was not enacted in law this session? State may not be able to take full advantage of federal funds made available to the state.*

- **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

If this is a resubmission, please share:

- (9) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (10) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (11) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (12) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Not applicable
Agency Contact (name, title, phone):): Andrea Keilty, Legislative and Policy Director
Date Contacted: 9/23

Approve of Proposal ☐ X YES ☐ NO ☐ Talks Ongoing

Summary of Affected Agency's Comments

Met with DAS Procurement Carol Wilson and Devin Marquez. They thought we could use the GSA contracts now. The statute merely clarifies for DCS, that we can use them even if the dollar threshold would otherwise require formal bids. DAS has no objection to this.

Will there need to be further negotiation? ☐ YES ☐ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

State – The proposal will serve the state the costs associated with formal bidding, allow for the timely completion of projects, and, for federally-funded projects make certain DCS meets deadlines for utilizing federal funds.

Federal

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This proposal should have positive programmatic impacts by reducing renovation project schedules and construction costs as well as allowing the agency to advance new projects in a more timely manner.

Insert fully drafted bill here

Sec. 4b-91(k). (NEW) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may, in consultation with the Commissioner of Administrative Services and in accordance with the section 4a-66(b), purchase property and services for the installation of pre-fabricated and pre-engineered buildings from a person who has a contract to sell such property and services to a department, agency or instrumentality of the United States government. The purchase of the property and services shall comply with the terms and conditions of said contract. The commissioner shall, to the extent possible, obtain competitive proposals or quotes from at least three persons holding such contracts for the specific property and services being purchased by the commissioner.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):
DCS1006ConstructionServiceAwardPanels.

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

Liaison: Terrence Tulloch-Reid
Phone: (860) 713-5085
Cell: (860) 463-1825
E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Bureau of Building Design and Construction

Agency Analyst/Drafter of Proposal:

Roberta Avery

Title of Proposal

AAC Membership on Construction Service Award Panels

Statutory Reference

C.G.S. 4b-100a

Proposal Summary

Reduce the (6) member panel outlined in C.G.S. 4b-100a to (5) by eliminating the neutral party from the panel structures. The client agency has considerable presence on the panel (2) appointed members from the client agency, and three (3) from DCS. The neutral member has been found to lend minimal value to the process.

These are the award panels for any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for the state pursuant to section 4b-24

(which includes design-build projects) and pursuant to subsection (g) of section 4b-91.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (10) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*
- (11) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? No*
- (12) *Have certain constituencies called for this action? No*
- (13) *What would happen if this was not enacted in law this session?*

Delay in the selection due to the challenge of locating a person with the qualifications and availability to serve as the neutral panel member.

- **Origin of Proposal** X **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (13) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (14) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (15) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (16) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal YES NO Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ____ YES ____ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)
No

State
No

Federal
No

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

The appointment of the screening panel and the interview panel for design-build projects can occur more quickly without the need for the identification of a neutral panel member in addition to the members appointed by the Commissioner of Construction Services and the members appointed by the department head of the user agency.

Insert fully drafted bill here

Sec. 4b-100a. Construction services award panels. Screening, interview and selection of contractors. Memoranda re selection. Regulations. (a) The Department of Construction Services shall establish construction services award panels which shall each consist of [six] five members. Three of such members shall be appointed by the Commissioner of Construction Services, shall be current employees of the Department of Construction Services and shall serve only for deliberations involving the project for which such members are appointed. Two

members shall be appointed by the department head of the user agency. [and one member shall be a neutral party appointed by the commissioner]

(b) A panel established pursuant to this section shall not be deemed to be a board or commission within the meaning of section 4-9a. Such panels shall be the award panels for any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for the state pursuant to subsection (g) of section 4b-91 and section 4b-24.

(c) For each applicable contract, the commissioner shall designate one panel to screen all submitted proposals and establish a list of bidders to be interviewed and shall designate a separate panel consisting of different members to interview bidders on the list and submit a list of recommended contractors to the commissioner ranked in order of preference with the most qualified bidder listed first.

(d) The commissioner shall designate one voting member on each panel to serve as chairperson. The chairperson shall moderate the committee, collect votes and compile the results.

(e) Each award panel shall prepare a memorandum on the selection process indicating (1) how the evaluation criteria were applied by each panel member to determine the most qualified firms, (2) the ranking of each bidder by each panel member which shall be available to the public after execution of the contract with the selected contractor, and (3) a certification by each panel member that the selection of the most qualified firm was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(f) The commissioner shall select a contractor from among the list of firms submitted by the award panel that interviewed the contractors. After the commissioner has made a selection, the names of the contractor firms submitted to the commissioner shall be available to the public upon request. In the event the commissioner does not select the most qualified bidder listed by the awards panel, the commissioner shall prepare a written explanation of the commissioner's decision. The commissioner shall also prepare a memorandum on the final phase of the selection process, indicating how the commissioner applied the evaluation criteria to determine the successful bidder. Such memorandum shall include a certification by the commissioner that the commissioner's selection of the successful bidder was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or undue pressure from any person and shall be available to the public after execution of the contract with the selected contractor.

(g) The commissioner shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):
1007DCSSubContractorUnsubstantiatedClaimsClassification

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency: Department of Construction Services

Liaison:
Terrence Tulloch-Reid
Phone: 860-713-5085
Cell 860-463-1825
E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Bureau of Building Design and Construction

Agency Analyst/Drafter of Proposal:

Jenna Padula

Title of Proposal
AAC Contractor Change Orders and Unsubstantiated Claims

Statutory Reference

C.G.S. 4b-92

Proposal Summary

As part of its due diligence when considering a bidder's past performance, an awarding authority must consider the bidder's skill and past performance. The proposal adds a consideration of the bidder's past percentage of change orders and past assertions of unsubstantiated claims.

DCS has historical information on certain contractors who made years of unfounded claims which costs the state millions to refute. At conclusion of court proceedings, that contractor

ended up owing the state.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

(14) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*

(15) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*

(16) *Have certain constituencies called for this action?*

(17) *What would happen if this was not enacted in law this session?*

- **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

If this is a resubmission, please share:

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal ☐ YES ☐ NO ☐ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ☐ YES ☒ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) None
State None
Federal None
Additional notes on fiscal impact There may be a long-term positive financial impact to the state in terms of reduced project costs if DCS considers a bidder's history with change orders and unsubstantiated claims before entering into a contract with such bidder.

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Adding the consideration of past change orders and unsubstantiated claims as part of the review process of a bidder's past performance can prevent future added costs and resource drains.
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Section 1. Section 4b-92 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

As used in this chapter and except as otherwise provided, the words "lowest responsible and qualified bidder" shall mean the bidder who is prequalified pursuant to section 4a-100, and whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary to faithful performance of the work based on objective criteria considering past performance and information contained in the update bid statement submitted pursuant to section 4b-91. Essential information in regard to such qualifications shall be submitted with the bid in such form as the awarding authority may require by specification in the bid documents and on the bid form. Every general bid shall be accompanied by a bid bond or a certified check in an amount which shall be ten per cent of the bid, provided no such bid bond or certified check

shall be required in relation to any general bid in which the total estimated cost of labor and materials under the contract with respect to which such general bid is submitted is less than fifty thousand dollars. Failure to execute a contract awarded as specified and bid shall result in the forfeiture of such bid bond or certified check. In considering past performance the awarding authority shall evaluate the skill, ability and integrity of bidders in terms of the bidders' fulfillment of contract obligations and of the bidders' experience or lack of experience with projects of the nature and scope of the project for which the bids are submitted. In considering integrity the awarding authority shall evaluate the bidder's past practices and performance with regard to change order cost proposals and past assertions of unsubstantiated claims and consider the bidder's overall performance regarding on budget project completion. The awarding authority shall apply such considerations of past performance and the skill, ability, and integrity to each of the subcontractors listed as part of the general bid or trade bid.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

DCS1008BidThresholdSubContractorsPrequalification.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency: Department of Construction Services

Liaison:

Terrence Tulloch-Reid

Phone: 860-713-5085

Cell 860-463-1825

E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Bureau of Building Design and Construction

Agency Analyst/Drafter of Proposal:

Jenna Padula

Title of Proposal

AAC Prequalification Thresholds and the Prequalification Timing of Sub Contractors Relating to Capital Projects Administered by the Department of Construction Services

Statutory Reference

C.G.S. 4b-91, 4b-52

Proposal Summary

DCS proposes changing the threshold for projects to be awarded to the lowest responsible and qualified bidder from \$500,000 to \$2 million.

In addition, DCS seeks to clarify that sub contractors shall be prequalified at the time of bid submittal, preventing potential project delays as the department waits for sub contractors to meet the prequalification requirements before work can commence.

<i>Please attach a copy of fully drafted bill (required for review)</i>

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (18) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No.*
- (19) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (20) *Have certain constituencies called for this action?*
- (21) *What would happen if this was not enacted in law this session? DCS would continue to require projects valued at \$500,000 or more to be subject to the formal bidding process, which requires additional staff and resource commitment.*

- **Origin of Proposal** X **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (17) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (18) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (19) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (20) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted: Approve of Proposal <u> </u> YES <u> </u> NO <u> </u> Talks Ongoing
Summary of Affected Agency's Comments
Will there need to be further negotiation? <u> </u> YES <u> X </u> NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation) None
State None
Federal None
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

<p>Section 1: Increasing the dollar amount in section 4b-91 of state contracts that require the state to use the formal bidding process in section 4a-100 from \$500,000 to \$2 million allows the department to move more projects with less administrative steps. The dollar amount has not been increased since 1999 when the amount was changed from \$250,000 to \$500,000. In the more than a decade that's passed, the \$500,000 amount has become obsolete in terms of the size of a project. Also, the increased threshold would allow DCS to refocus its staff and resources. With the change, projects valued at less than \$2 million would be commenced sooner, with the result of creating construction jobs earlier in the process.</p> <p>In addition. In subsection (j) of section 4b-91, the department proposes to require that sub contractors be prequalified at the time of the bid submittal. This recommendation prevents a lag time before a project can start while the department waits for the sub contractor to meet the prequalification requirements.</p> <p>Section 2: Section 4b-52 (c) gives the department the authority to address emergency conditions without inviting bids. The department's proposal to increase this amount from \$500,000 to \$2 million consequently is in line with the changes in section 1. Again, the \$500,000 amount was put into place in 1999. The proposed increase would greatly assist the state in addressing emergency repairs in the most efficient and timely manner, increase the number of emergency situations that can be addressed concurrently, and provide for the most appropriate allocation of state personnel and resources.</p>

If the expenditures will exceed \$500,000, the Commissioner must obtain the Governor's written consent and certify to the joint committee of the General Assembly having cognizance of matters relating to legislative management that the project is of such an emergency in nature that an exception to the formal bidding procedures of 4b-91 is required.

Fully Drafted Bill

Section 1. Section 4b-91 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013)

(a) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state except a public highway or bridge project or any other construction project administered by the Department of Transportation, which is estimated to cost more than [five hundred thousand] two million dollars, except a contract awarded by the Commissioner of Construction Services for (1) a community court project, as defined in subsection (j) of section 4b-55, (2) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (3) a correctional facility project, as defined in subsection (m) of section 4b-55, (4) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (5) a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 4a-100 on the basis of competitive bids in accordance with the procedures set forth in this chapter, after the Commissioner of Construction Services or, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by notice posted on the State Contracting Portal. Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by a public agency that is paid for, in whole or in part, with state funds and that is estimated to cost more than five hundred thousand dollars, except a public highway or bridge project or any other construction project administered by the Department of Transportation, shall be awarded to a bidder that is prequalified pursuant to section 4a-100 after the public agency has invited such bids by notice posted on the State Contracting Portal. The Commissioner of Construction Services, the joint committee, the constituent unit or the public agency, as the case may be, shall indicate the prequalification classification required for the contract in such notice. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of

Administrative Services pursuant to section 4a-100. As used in this section, "public agency" means public agency, as defined in section 1-200.

(b) The Commissioner of Construction Services, the joint committee or the constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be made not later than ninety days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Construction Services, the joint committee or a constituent unit with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the Commissioner of Construction Services, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Construction Services, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) No person may bid on a contract or perform work pursuant to a contract that is subject to the provisions of subsection (a) of this section unless the person is prequalified in accordance with section 4a-100.

(d) Each bid submitted for a contract described in subsection (c) of this section shall include an update bid statement in such form as the Commissioner of Administrative Services prescribes and, if required by the public agency soliciting such bid, a copy of the prequalification certificate issued by the Commissioner of Administrative Services. The form for such update bid statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection

(c) of section 4a-100 and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate, if required by the public agency soliciting such bid, and an update bid statement shall be deemed invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate, if required by such public agency soliciting such bid, and an update bid statement may become ineligible for the receipt of funds related to such bid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update bid statement, and that the bid was made without fraud or collusion with any person.

(f) Any person who receives information from a state employee or public official that is not available to the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building or any other public work prior to the date that a notice for bids on the project is posted shall be disqualified from bidding on the project.

(g) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 4a-100 and submit the three selected contractors to the construction services award panels process described in section 4b-100a and any regulation adopted by the commissioner. The commissioner may negotiate with the successful bidder a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. The Commissioner of Construction Services, prior to entering any such contract or performing any work on such project, shall submit such contract to the State Properties Review Board for review and approval or disapproval by the board, pursuant to subsection (i) of this section. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h) Any agency that seeks to have a project awarded without being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to government administration and elections that the project is of such an emergency nature that an exception to the competitive bidding procedures of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation.

(i) In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Construction Services submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

(j) On and after October 5, 2009, no person whose subcontract exceeds five hundred thousand dollars in value may perform work as a subcontractor on a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation, which project is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless, at the time of the bid submittal, the person is prequalified in accordance with section 4a-100. The provisions of this subsection shall not apply to a project described in subdivision (2) of subsection (a) of this section.

Sec. 2. Section 4b-52 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

(a)(1) No repairs, alterations or additions involving expense to the state of five hundred thousand dollars or less or, in the case of repairs, alterations or additions to a building rented or occupied by the Judicial Branch, one million two hundred fifty thousand dollars or less or, in the case of repairs, alterations or additions to a building rented or occupied by a constituent unit of the state system of higher education, two million dollars or less, shall be made to any state building or premises occupied by any state officer, department, institution, board, commission or council of the state government and no contract for any construction, repairs, alteration or addition shall be entered into without the prior approval of the Commissioner of Construction Services, except repairs, alterations or additions to a building under the supervision and control of the Joint Committee on Legislative Management and repairs, alterations or additions to a building under the supervision of The University of Connecticut. Repairs, alterations or additions which are made pursuant to such approval of the Commissioner of Construction Services shall conform to all guidelines and procedures established by the Department of Construction Services for agency-administered projects. (2) Notwithstanding the provisions of subdivision (1) of this subsection, repairs, alterations or additions involving expense to the state of five hundred thousand dollars or less may be made to any state building or premises under the supervision of the Office of the Chief Court Administrator or a constituent unit of the state system of higher education, under the terms of section 4b-11, and any contract for any such construction, repairs or alteration may be entered into by the Office of the Chief Court Administrator or a constituent unit of the state system of higher education without the approval of the Commissioner of Construction Services.

(b) Except as provided in this section, no repairs, alterations or additions involving an expense to the state of more than five hundred thousand dollars or, in the case of repairs, alterations or additions to a building rented or occupied by the Judicial Branch, more than one million two hundred fifty thousand dollars, or, in the case of repairs, alterations or additions to a building rented or occupied by a constituent unit of the state system of higher education, more than two million dollars, shall be made to any state building or premises occupied by any state officer, department, institution, board, commission or council of the state government, nor shall any contract for any construction, repairs, alteration or addition be entered into, until the Commissioner of Construction Services or, in the case of the construction or repairs, alterations or additions to a building under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, said joint committee or, in the case of construction, repairs, alterations or additions to a building involving expenditures in excess of five hundred thousand dollars but not more than one million two hundred fifty thousand dollars under the supervision and control of the Judicial Branch, said Judicial Branch or, in the case of the construction, repairs, alterations or additions to a building involving expenditures in excess of five hundred thousand dollars but not more than two million dollars under the supervision and control of one of the constituent units of higher education, the constituent unit, has invited bids thereon and awarded a contract thereon, in accordance with the provisions of sections 4b-91 to 4b-96, inclusive. The Commissioner of Construction Services, with the approval of the authority having the supervision of state employees or the custody of inmates of state institutions, without the necessity of bids, may employ such employees or inmates and purchase or furnish the necessary materials for the construction, erection, alteration, repair or enlargement of any such state building or premises occupied by any state officer, department, institution, board, commission or council of the state government.

(c) Whenever the Commissioner of Construction Services declares that an emergency condition exists at any state facility, other than a building under the supervision and control of the Joint Committee on Legislative Management, and that the condition would adversely affect public safety or the proper conduct of essential state government operations, or said joint committee declares that such an emergency exists at a building under its supervision and control, the commissioner or the joint committee may employ such assistance as may be required to restore facilities under their control and management, or the commissioner may so act upon the request of a state agency, to restore facilities under the control and management of such agency, without inviting bids as required in subsection (b) of this section. The commissioner shall take no action requiring the expenditure of more than [five hundred thousand] two million dollars to restore any facility under this subsection (1) without the written consent of the Governor, and (2) until the commissioner has certified to the joint committee of the General Assembly having cognizance of matters relating to legislative management that the project is of such an emergency nature that an exception to subsection (b) of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation. The provisions of this subsection shall not apply if any person is obligated under the terms of an existing contract with the state to render such assistance. The annual report of the commissioner shall include a detailed statement of all expenditures made under this subsection.

(d) The Commissioner of Administrative Services may, during the term of a lease of a building or premises occupied by any state offices, department, institution, board, commission or council of the state government, (1) renegotiate the lease in order to enable the lessor to make necessary alterations or additions up to a maximum amount of five hundred thousand dollars, in consultation with the Commissioner of Construction Services and subject to the approval of the State Properties Review Board, or (2) require that a security audit be conducted for such building or premises and, if necessary, renegotiate the lease in order to enable the lessor to make necessary alterations or additions to bring the building or premises into compliance with the security standards for state agencies established under section 4b-132. Alterations or additions under subdivision (2) of this subsection shall not be subject to the spending limit in subdivision (1) of this subsection, and a renegotiated lease under said subdivision (2) shall be subject to the approval of the State Properties Review Board, provided such approval requirement shall not compromise the security requirements of chapter 60a and this section. The commissioner shall determine the manner of submission, conditions and requirements of bids and awards made for alterations or additions under this subsection. No lease shall be renegotiated under this subsection for a term less than five years. As used in this subsection, "security" and "security audit" have the meanings assigned to such terms in section 4b-130.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

1009DCSClassificationThresholdsForSubContractors.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency: Department of Construction Services

Liaison:

Terrence Tulloch-Reid

Phone: 860-713-5085

Cell 860-463-1825

E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Bureau of Building Design and Construction

Agency Analyst/Drafter of Proposal:

Jenna Padula

Title of Proposal

AAC Classification Thresholds for Sub Contractors

Statutory Reference

C.G.S. 4b-93

Proposal Summary

Currently every contract includes plans and specifications detailing all labor and materials to be provided under the contract. There are classifications for all of those services in excess of \$25,000. DCS recommends increasing that dollar amount to \$100,000.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (22) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*
- (23) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (24) *Have certain constituencies called for this action?*
- (25) *What would happen if this was not enacted in law this session? Specifications will continue to be required pursuant to section 4b-93 for the listed classes of work when the work is expected to exceed \$25,000.*

- **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

If this is a resubmission, please share:

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal ☐ YES ☐ NO ☐ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ☐ YES ☒ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)
None
State
None
Federal
None
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

<p>The threshold dollar amount of \$25,000 was set in 1989 and has become obsolete in the more than a decade that's passed. This change would have minimal bearing on the process and <u>no</u> underlying effect on the present process or costs to projects. This concept would simply add more realistic costs outlays to our bid forms. This change would also allow DCS to refocus administrative staff and resources.</p>

Section 1. Section 4b-93 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

(a) Every contract subject to this chapter shall include plans and specifications detailing all labor and materials to be furnished thereunder. Such specifications shall have a separate section for each of the following classes of work if, in the estimate of the awarding authority, the class of work will exceed [twenty-five] one hundred thousand dollars: (1) Masonry work; (2) electrical work; (3) mechanical work other than heating, ventilating and air conditioning work; and (4) heating, ventilating and air conditioning work. Such specifications shall also have a separate section for each other class of work for which the awarding authority deems it necessary or convenient.

(b) Each separate section in the specifications provided for by this section shall specify by number each sheet of plans showing work to be done by the subcontractor under such section, and shall require the subcontractor to install all materials to be furnished by him under such section other than materials which, in the opinion of the awarding authority, it is not customary

under current trade practices for such subcontractor to install and the installation of which is expressly required by another section of the specifications. Each class of work set forth in a separate section of the specifications pursuant to this section shall be a subtrade designated in the general bid form and shall be the matter of a subcontract made in accordance with the procedure set forth in this chapter.

(c) Whenever the awarding authority has designated a separate section for a class of work, under subsection (a) of this section, the general contractor shall, when applicable, state as part of its application for partial payment that it considers the work required to be done under any such separate section to be fully completed in accordance with the terms of the contract. The awarding authority shall thereupon conduct an inspection of the work in such class, and if it finds that such work has been fully completed in accordance with the terms of the contract, it shall issue a statement certifying that such work is accepted as fully completed, and shall pay the general contractor in full for such work.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):
DCS1010FireOfficialCertification.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:
Department of Construction Services

Liaison: Terrence Tulloch-Reid
Phone: 860-713-5085
Cell 860-463-1825
E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Bureau of Process Management

Office of Education & Data Management / Office of the State Fire Marshal

Agency Analyst/Drafter of Proposal:
Bonnie Becker ~ Office of Education and Data Management
Terry Brouwer ~ Office of State Fire Marshal

Title of Proposal
AAC Fire Safety Enforcement Official Certification

Statutory Reference

C.G.S. 29-297 and 29-298

Proposal Summary

This proposal intends to streamline the process for the certification of fire safety enforcement officials and remove administrative inconsistencies.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (26) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (27) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (28) *Have certain constituencies called for this action?*
- (29) *What would happen if this was not enacted in law this session?*

- This proposal intends to remove administrative inconsistencies which hinder communities in their hiring process for the various classes of fire safety enforcement officials. Presently pursuant to the statutory language, after completing a recognized training program, the Office of State Fire Marshal OSFM certifies as “eligible to be certified” and once hired, we must then issue second certificate as “certified”. The inconsistency is that the statute does not allow a community to hire an individual unless the person is “certified”. This would make the processing of credentials uniform and more efficient as well as eliminating additional record keeping.
- This proposal would also allow the recognition of training programs of outside institutions such as colleges and other private training institutions.
- This proposal would also allow the local fire marshal to delegate his signatory authority to his subordinates to all of the fire safety regulations adopted pursuant to Chapter 541, not just the Fire Safety Code. These other regulations include, but not limited to, the Fire Prevention Code, Fireworks, Flammable Liquids, Oil Burning Equipment and Gas Piping and Equipment.
- Lastly the change in CGS 29-297, this proposal would allow communities to appoint as needed lower tier inspectors and investigators recognized by CGS 29-298

- **Origin of Proposal** **New Proposal** XX **Resubmission**

If this is a resubmission, please share:

What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?

SB 327 received support from the Chairs allowing a public hearing---the bill was not JF’d due to concerns expressed to Public Safety Chairs and Rankings by the Connecticut State Fire Marshals about the Governor’s consolidation/merger as it pertained to these ancillary DESPP functions moving to DCS.

During the 2012 Session, CT Fire Marshals Association was problematic in moving some legislative issues forward on behalf of DCS—CFMA testimony on SB 327 N:\CFMA Testimony (3).pdf

DCS refuted all of the claims made in this testimony re: SB 327 and the analyst understands our

position. The Chairs were reluctant to do anything merger related for DCS last session.

(21) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? No*

(22) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? State Fire Marshal and his staff. Connecticut State Fire Marshal.*

(23) *What was the last action taken during the past legislative session? Died in Public Safety with no JF action.*

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: **NONE**

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal ___ YES X NO ___ Talks Ongoing

Summary of Affected Agency's Comments

Will there need to be further negotiation? ___ YES X NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)
None

State
None

Federal
None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Eliminating “eligible to be certified” status eliminates the need to keep records of a particular area. It makes processing of credentials uniform and more efficient.

The individuals who have passed the certification examinations, but are not appointed (employed) would be certified. Certification would be based on successful completion of credentialing exams, not on employment (like Building Officials).

Insert fully drafted bill here

Sec. 29-298. (Formerly Sec. 29-45a). Certification of local fire marshals, deputies, inspectors and investigators. Continuing education programs. Certificate of emeritus. Immunity from personal liability. (a) The State Fire Marshal and the Codes and Standards Committee, acting jointly, shall adopt minimum standards of qualification for local fire marshals, deputy fire marshals, fire inspectors and such other classes of inspectors and investigators as they deem necessary. The State Fire Marshal and the Codes and Standards Committee shall (1) prepare and conduct oral, written or practical examinations to determine if a person is qualified ~~and eligible~~ to be certified, or (2) accept successful completion of programs of training developed by ~~public~~ institutions or agencies and approved by them as proof of qualification for certification ~~eligibility~~, or (3) prepare and conduct a training program, the successful completion of which shall qualify a person to be certified. Upon determination of the qualification of a local fire official under subdivision (1), (2) or (3) of this subsection, the State Fire Marshal and the Codes and Standards Committee shall issue or cause to be issued a certificate to such person stating that the person is ~~eligible to be~~ certified. The State Fire Marshal and the Codes and Standards Committee shall establish classes of certification that will recognize the varying involvements of such local fire officials. Local fire marshals, deputy fire marshals, fire inspectors and other inspectors or investigators holding office in any municipality shall be certified in accordance with subdivision (1), (2) or (3) of this subsection. On or after October 1, 1979, no local fire marshal, deputy fire marshal, fire inspector or other inspector or investigator shall be appointed or hired unless such person is certified and any such person shall be removed from office if such person fails to maintain certification. The State Fire Marshal and the Codes and Standards Committee shall conduct educational programs designed to assist such local fire officials in carrying out the duties and responsibilities of their office. Such educational programs for local fire marshals, deputy fire marshals and fire inspectors shall be in addition to the programs specified under subdivisions (2) and (3) of this subsection and shall consist of not less than ninety hours of training over a three-year period. The State Fire Marshal and the Codes and Standards Committee shall establish the minimum hours of training for the other classes of inspectors and investigators, which shall recognize the varying involvements of such officials. Each local fire official shall attend such training programs or other approved programs of training and present proof of successful completion to the State Fire Marshal. The State Fire Marshal may, after notice and opportunity for hearing, and with

the participation of one or more members of the Fire Marshal Training Council, revoke any certificate issued under the provisions of this subsection for failure on the part of a local fire official to present such proof. Any ~~[appointed]~~ local fire marshal, deputy fire marshal or other inspector or investigator who wishes to retire his or her certificate may apply to the State Fire Marshal and the Codes and Standards Committee to have such certificate retired and be issued a certificate of emeritus. Such retired local fire official may no longer hold himself or herself out as a certified local fire official.

(b) No local fire marshal, deputy fire marshal, fire inspector or other inspector or investigator acting for a local fire marshal, who is charged with the enforcement of ~~[the Fire Safety Code and]~~ this chapter, may be held personally liable for any damage to persons or property that may result from any action that is required or permitted in the discharge of his official duties while acting for a municipality or fire district. Any legal proceeding brought against any such fire marshal, deputy fire marshal, fire inspector or other inspector or investigator because of any such action shall be defended by such municipality or fire district. No such fire marshal, deputy fire marshal, fire inspector or other inspector or investigator may be held responsible for or charged with the costs of any such legal proceeding. Any officer of a local fire marshal's office, if acting without malice and in good faith, shall be free from all liability for any action or omission in the performance of his official duties.

(c) Except as provided in this subsection, each certified deputy fire marshal, fire inspector or other inspector or investigator shall act under the direction and supervision of the local fire marshal while enforcing the ~~[Fire Safety Code and]~~ the provisions of this chapter. The local fire marshal may authorize, in writing, such deputy fire marshal or fire inspector to issue any permit or order under the provisions of this part or to certify compliance with the provisions of ~~[the Fire Safety Code]~~ this chapter, on his behalf. If no local fire marshal has been appointed in accordance with the provisions of section 29-297, the deputy fire marshal or acting fire marshal shall assume the authority granted to the local fire marshal under this section.

Sec. 29-297. Appointment of local fire marshals, deputies and provisional fire marshals. (a) The board of fire commissioners or, in the absence of such board, any corresponding authority of each town, city or borough, or, if no such board or corresponding authority exists, the legislative body of each city, the board of selectmen of each town or the warden and burgesses of each borough, or, in the case of an incorporated fire district, the executive authority of such district shall appoint a local fire marshal and such deputy fire marshals and other inspectors or investigators as may be necessary. In making such appointment, preference shall be given to a member of the regular or volunteer fire department of such municipality. Each local fire marshal shall be sworn to the faithful performance of his duties by the clerk of the town, city, borough or fire district and shall continue to serve in that office until removed for cause. Such clerk shall record his acceptance of the position of local fire marshal and shall report the same in writing to the State Fire Marshal within ten days thereafter, giving the name and address of the local fire marshal and stating the limits of the territory in which the local fire marshal is to serve.

(b) The board of fire commissioners or, in the absence of such board, any corresponding authority of each town, city or borough or, if no such board or corresponding authority exists, the legislative body of each city, the board of selectmen of each town or the warden and burgesses of each borough or, in the case of an incorporated fire district, the executive authority of such district may, upon the death, disability, dismissal, retirement or revocation of certification of the local fire marshal, and in the absence of an existing deputy fire marshal, appoint a certified deputy fire marshal as the acting fire marshal for a period not to exceed one hundred eighty days.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

DCS1011ConsolidationandOperationsoftheDepartmentofConstructionServices

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

Liaison: Terrence Tulloch-Reid

Phone(860) 713-5085

Cell (860) 463-1825

E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Commissioner's Office

Agency Analyst/Drafter of Proposal:

Terrence Tulloch Reid

Kevin Kopetz

Jenna Padula

Title of Proposal

AAC Consolidation and Operations of the Department of Construction Services

Statutory Reference

- Explosives C.G.S. 29-343-355
- Fireworks C.G.S. 29-357-29-365
- Model Rocketry C.G.S. 29-367-29-369
- Demolition Licensing C.G.S. 29-403-29-403
- Moving Pictures C.G.S. 29-109-29-128f

Proposal Summary

During the 2012 legislative session; GOPM tabled all DCS merger recommendations due to the

short session. Pursuant to Section 114 of Public Act 11-51 there are a series of outstanding DCS requests which the agency is awaiting instruction from the Administration. Commissioner Bradford during the 2012 discussions appeared receptive to regaining the these functions:

- Explosives C.G.S. 29-343-355
- Fireworks C.G.S. 29-357-29-365
- Model Rocketry C.G.S. 29-367-29-369
- Demolition Licensing C.G.S. 29-403-29-403
- Moving Pictures C.G.S. 29-109-29-128f

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- **Reason for Proposal**

Please consider the following, if applicable:

- (30) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*
- (31) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? None that we are aware of.*
- (32) *Have certain constituencies called for this action? There have been some organizations that expressed concerns with some elements of the Governor's consolidation of DCS. In specific, the functions that were at the former Department of Public Safety. While DCS does not believe that the merger has impacted the public safety of any CT resident, we do believe that these ancillary functions are more effectively served if relocated to DESPP.*
- (33) *What would happen if this was not enacted in law this session? DCS would continue to work with DESPP under the existing MOU agreements.*

- **Origin of Proposal** X **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (24) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package? On-Going discussions with GOPM and DESPP never concluded with language being offered either in Regular or Special Sessions.*
- (25) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? No*
- (26) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? Commissioner DeFronzo, Deputy Salemi, Commissioner*

Bradford
(27) What was the last action taken during the past legislative session? None

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Department of Emergency Services and Public Protection
Agency Contact (name, title, phone):
Steve Spellman (860) 685-8300
Scott Devico (860) 256-0813

Date Contacted: September 11th

Approve of Proposal ☐ YES ☐ NO ☒ X Talks Ongoing

Summary of Affected Agency's Comments

No response to date.

Will there need to be further negotiation? ☒ X YES ☐ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

None

State

None

Federal

None

Additional notes on fiscal impact

-
- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)
-

Insert fully drafted bill here

Explosives back to DESPP

Sec. 29-344. (Formerly Sec. 29-84). Reports to [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection

Any person engaged in keeping or storing any explosives shall, before engaging in the keeping or storing of such explosives, make a report to the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection stating: The location of the magazine, if existing, or, in case of a new magazine, the proposed location of such magazine; the kind of explosives that are kept or stored or intended to be kept or stored and the maximum quantity that is intended to be kept or stored therein; and the distance such magazine is located or intended to be located from the nearest building or highway.

Any person engaged in keeping or storing any explosives shall, before engaging in the keeping or storing of such explosives, make a report to the [Commissioner of Construction Services] Department of Emergency Services & Public Protection stating: The location of the magazine, if existing, or, in case of a new magazine, the proposed location of such magazine; the kind of explosives that are kept or stored or intended to be kept or stored and the maximum quantity that is intended to be kept or stored therein; and the distance such magazine is located or intended to be located from the nearest building or highway.

Sec. 29-345. (Formerly Sec. 29-85). License and permit verification. Records of disposition of explosives.

Each person selling or giving away any explosive shall first ascertain that the purchaser or donee of such explosives has obtained a license and permit required by section 29-349 and shall keep a record in which shall be entered an accurate account of each disposition by such

person in the course of business, or otherwise, of any explosive. Such record shall show, in legible writing to be entered therein at the time of disposition of the explosive, a history of such transaction, showing the name and quantity of the explosive, the name and place of residence and business of the purchaser or donee, and the name and address of the individual to whom delivered. Such record shall be kept by such person in his principal office or place of business in this state and shall be subject to examination by any military authority, the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection, his deputies and the police officers of the municipality where situated. Any such authority may at any time require any such dealer to produce such record for the year previous. Nothing in this section shall apply to any transaction when such explosive is to be shipped by common carrier to a point outside this state and for use outside this state.

Sec. 29-345. (Formerly Sec. 29-85). License and permit verification.

Records of disposition of explosives. Each person selling or giving away any explosive shall first ascertain that the purchaser or donee of such explosives has obtained a license and permit required by section 29-349 and shall keep a record in which shall be entered an accurate account of each disposition by such person in the course of business, or otherwise, of any explosive. Such record shall show, in legible writing to be entered therein at the time of disposition of the explosive, a history of such transaction, showing the name and quantity of the explosive, the name and place of residence and business of the purchaser or donee, and the name and address of the individual to whom delivered. Such record shall be kept by such person in his principal office or place of business in this state and shall be subject to examination by any military authority, the [Commissioner of Construction Services] Commissioner of Department of Emergency Services & Public Protection, his deputies and the police officers of the municipality where situated. Any such authority may at any time require any such dealer to produce such record for the year previous. Nothing in this section shall apply to any transaction when such explosive is to be shipped by common carrier to a point outside this state and for use outside this state.

Sec. 29-346. (Formerly Sec. 29-86). Custodian to report.

Any person not referred to in sections 29-344 and 29-345, having in his possession any explosive, shall report the amount and kind thereof to the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection within ten days after purchase of the same and the purpose for which such explosive is to be used.

Sec. 29-349. (Formerly Sec. 29-89). Storage, transportation and use of explosives and blasting agents. Licenses, permits: Fees, suspension or revocation. Penalty. Jurisdiction of Labor Commissioner. Variations, exemptions or equivalent compliance with regulatory requirements.

(a) The [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection shall have exclusive jurisdiction in the preparation of and may enforce reasonable regulations for the safe and convenient storage, transportation and use of explosives and blasting agents used in connection therewith, which regulations shall deal in particular with the quantity and character of explosives and blasting agents to be stored, transported and used, the proximity of such storage to inhabited dwellings or other occupied buildings, public highways and railroad tracks, the character and construction of suitable magazines for such storage, protective measures to secure such stored explosives and blasting agents and the abatement of any hazard that may arise incident to the storage, transportation or use of such explosives and blasting agents.

(b) No person, firm or corporation shall engage in any activity concerning the storage, transportation or use of explosives unless such person, firm or corporation has obtained a license therefor from the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection. Such license shall be issued upon payment of a fee of two hundred dollars and upon submission by the applicant of evidence of good moral character and of competence in the control and handling of explosives, provided, if such license is for the use of explosives, it may be issued only to an individual person after demonstration that such individual is technically qualified to detonate explosives. Any such license to use explosives shall bear both the fingerprints of the licensee obtained by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection at the time of licensing, and the licensee's photograph, furnished by the licensee, of a size specified by the commissioner and taken not more than one year prior to the issuance of the license. Each such license shall be valid for one year from the date of its issuance, unless sooner revoked or suspended, and may be renewed annually thereafter upon a payment of one hundred fifty dollars.

(c) The [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection shall require any applicant for a license under this section to submit to state and national criminal history records checks. The criminal history records checks required pursuant to this subsection shall be conducted in accordance with section 29-17a.

(d) No person shall manufacture, keep, store, sell or deal in any explosives unless such person has a valid license under the provisions of subsection (b) of this section and obtains from the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection or from the fire marshal of the town where such business is conducted a written permit therefor, which permit shall not be valid for more than one year and for which such person shall pay a fee of one hundred dollars. If the permit is issued by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection, the commissioner shall forward a copy thereof to the local fire marshal. Such permit so granted shall definitely state the location of the building where such business is to be carried on or such explosive deposited and shall state that such building or premises complies with the regulations provided for in this section.

(e) No person shall procure, transport or use any explosives unless such person has a valid license under subsection (b) of this section and has obtained a written permit therefor signed by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection or by the fire marshal of the town where such explosive is to be used, specifying the name of the purchaser, the amount to be purchased and transported and the purpose for which it is to be used. Any such permit to use explosives shall state the number of years the permittee has been engaged in blasting activity. Such permit shall be valid for such period, not longer than one year, as is required to accomplish the purpose for which it was obtained. No carrier shall transport any such explosive until the vehicle transporting the explosive has been inspected and approved by the [Department of Construction Services] Department of Emergency Services & Public Protection and unless such written permit accompanies the same and no person shall have in such person's possession any such explosive unless such person has a license and permit therefor. The fee for such inspection shall be one hundred dollars. The fee for such permit shall be sixty dollars. Each person who has in such person's custody or possession any explosive or any detonating caps for explosives shall keep the same either under personal observation or securely locked up.

(f) Any license or permit issued under the provisions of this section may be suspended or revoked by the issuing authority for violation by the licensee or permittee of any provision of law or regulation relating to explosives or conviction of such licensee or permittee of any felony or misdemeanor. Suspension or revocation of a license shall automatically suspend or revoke the permit and the suspension or revocation of a permit shall automatically suspend or revoke the license.

(g) Any person who, by himself or herself or by such person's employee or agent or as the employee or agent of another, violates any provision of this section, or any regulation made by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection pursuant to the provisions of this section, shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(h) As used in this section, "blasting agent" means any material, composition or mixture intended for blasting, consisting substantially of a fuel and oxidizer, none of the ingredients of which is an explosive, as defined in section 29-343, and the finished product of which as mixed and packaged for use or shipment cannot be detonated by the test procedure established by regulations adopted by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection in accordance with chapter 54.

(i) Notwithstanding the provisions of this section, the Labor Commissioner shall regulate the storage, transportation and use of explosives and blasting agents in places of employment insofar as such activities relate to employee health and safety, provided such regulations shall be no less stringent than those prepared and enforced by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection pursuant to this section.

(j) The State Fire Marshal may grant variations or exemptions from, or approve equivalent or alternate compliance with, particular provisions of any regulation adopted under this section where strict compliance with such provisions would entail practical difficulty or unnecessary hardship or is otherwise adjudged unwarranted, provided any such variation, exemption, equivalent or alternate compliance shall, in the opinion of the State Fire Marshal, secure the public safety.

Sec. 29-355. (Formerly Sec. 29-95). Appeal from orders relating to explosives, blasting agents and gunpowder.

If any person considers himself aggrieved by the doings of the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection or the fire marshal under section 29-349 or 29-354, he may apply, within thirty days, to the Superior Court, which may grant appropriate relief; but nothing contained herein shall be construed to prevent the transportation of gunpowder, or its deposit for transportation during a period of not over forty-eight hours.

Fireworks back to DESPP

Sec. 29-357. (Formerly Sec. 29-97). *(See end of section for amended version and effective date.) Sale, use and possession of fireworks prohibited. Sale, use and possession of certain sparklers or fountains permitted. Permits for display. Variations or exemptions. Penalty.

(a) Except as provided in subsection (b) of this section, no person, firm or corporation shall offer for sale, expose for sale, sell at retail or use or explode or possess with intent to sell, use or explode any fireworks. A person who is sixteen years of age or older may offer for sale, expose for sale, sell at retail, purchase, use or possess with intent to sell or use sparklers or fountains of not more than one hundred grams of pyrotechnic mixture per item, which are nonexplosive and nonaerial, provided (1) such sparklers and fountains do not contain magnesium, except for magalium or magnesium-aluminum alloy, (2) such sparklers and fountains containing any chlorate or perchlorate salts do not exceed five grams of composition per item, and (3) when more than one fountain is mounted on a common base, the total pyrotechnic composition does not exceed two hundred grams.

(b) The State Fire Marshal shall adopt reasonable regulations, in accordance with chapter 54, for the granting of permits for supervised displays of fireworks or for the indoor use of pyrotechnics, sparklers and fountains for special effects by municipalities, fair associations, amusement parks, other organizations or groups of individuals or artisans in pursuit of their trade. Such permit may be issued upon application to said State Fire Marshal and after (1) inspection of the site of such display or use by the local fire marshal to determine compliance with the requirements of such regulations, (2) approval of the chiefs of the police and fire departments, or, if there is no police or fire department, of the first selectman, of the

municipality wherein the display is to be held as is provided in this section, and (3) the filing of a bond by the applicant as provided in section 29-358. No such display shall be handled or fired by any person until such person has been granted a certificate of competency by the State Fire Marshal, in respect to which a fee of two hundred dollars shall be payable to the State Treasurer when issued and which may be renewed every three years upon payment of a fee of one hundred ninety dollars to the State Treasurer, provided such certificate may be suspended or revoked by said marshal at any time for cause. Such certificate of competency shall attest to the fact that such operator is competent to fire a display. Such display shall be of such a character and so located, discharged or fired as in the opinion of the chiefs of the police and fire departments or such selectman, after proper inspection, will not be hazardous to property or endanger any person or persons. In an aerial bomb, no salute, report or maroon may be used that is composed of a formula of chlorate of potash, sulphur, black needle antimony and dark aluminum. Formulas that may be used in a salute, report or maroon are as follows: (A) Perchlorate of potash, black needle antimony and dark aluminum, and (B) perchlorate of potash, dark aluminum and sulphur. No high explosive such as dynamite, fulminate of mercury or other stimulator for detonating shall be used in any aerial bomb or other pyrotechnics. Application for permits shall be made in writing at least fifteen days prior to the date of display, on such notice as the State Fire Marshal by regulation prescribes, on forms furnished by him, and a fee of one hundred dollars shall be payable to the State Treasurer with each such application. After such permit has been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. Any permit issued under the provisions of this section may be suspended or revoked by the State Fire Marshal or the local fire marshal for violation by the permittee of any provision of the general statutes, any regulation or any ordinance relating to fireworks.

(c) The State Fire Marshal may grant variations or exemptions from, or approve equivalent or alternate compliance with, particular provisions of any regulation issued under the provisions of subsection (b) of this section where strict compliance with such provisions would entail practical difficulty or unnecessary hardship or is otherwise adjudged unwarranted, provided any such variation, exemption, approved equivalent or alternate compliance shall, in the opinion of the State Fire Marshal, secure the public safety and shall be made in writing.

(d) Any person, firm or corporation violating the provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than ninety days or be both fined and imprisoned, except that (1) any person, firm or corporation violating the provisions of subsection (a) of this section by offering for sale, exposing for sale or selling at retail or possessing with intent to sell any fireworks with a value exceeding ten thousand dollars shall be guilty of a class A misdemeanor, and (2) any person, firm or corporation violating any provision of subsection (b) of this section or any regulation adopted thereunder shall be guilty of a class A misdemeanor, except if death or injury results from any such violation, such person, firm or corporation shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

*Note: On and after January 1, 2013, this section, as amended by section 17 of public act 09-177 and section 6 of public act 10-54, is to read as follows:

"Sec. 29-357. (Formerly Sec. 29-97). Sale, use and possession of fireworks prohibited. Sale, use and possession of certain sparklers or fountains permitted. Permits for display. Variations or exemptions. Penalty.

(a) Except as provided in subsection (b) of this section, no person, firm or corporation shall offer for sale, expose for sale, sell at retail or use or explode or possess with intent to sell, use or explode any fireworks. A person who is sixteen years of age or older may offer for sale, expose for sale, sell at retail, purchase, use or possess with intent to sell or use sparklers or fountains of not more than one hundred grams of pyrotechnic mixture per item, which are nonexplosive and nonaerial, provided (1) such sparklers and fountains do not contain magnesium, except for magnalium or magnesium-aluminum alloy, (2) such sparklers and fountains containing any chlorate or perchlorate salts do not exceed five grams of composition per item, and (3) when more than one fountain is mounted on a common base, the total pyrotechnic composition does not exceed two hundred grams.

(b) The State Fire Marshal shall adopt reasonable regulations, in accordance with chapter 54, for the granting of permits for supervised displays of fireworks or for the indoor use of pyrotechnics, sparklers and fountains for special effects by municipalities, fair associations, amusement parks, other organizations or groups of individuals or artisans in pursuit of their trade. Such permit may be issued upon application to said State Fire Marshal and after (1) inspection of the site of such display or use by the local fire marshal to determine compliance with the requirements of such regulations, and (2) approval of the chiefs of the police and fire departments, or, if there is no police or fire department, of the first selectman, of the municipality wherein the display is to be held as is provided in this section. No such display shall be handled or fired by any person until such person has been granted a certificate of competency by the State Fire Marshal, in respect to which a fee of two hundred dollars shall be payable to the State Treasurer when issued and which may be renewed every three years upon payment of a fee of one hundred ninety dollars to the State Treasurer, provided such certificate may be suspended or revoked by said marshal at any time for cause. Such certificate of competency shall attest to the fact that such operator is competent to fire a display. Such display shall be of such a character and so located, discharged or fired as in the opinion of the chiefs of the police and fire departments or such selectman, after proper inspection, will not be hazardous to property or endanger any person or persons. In an aerial bomb, no salute, report or maroon may be used that is composed of a formula of chlorate of potash, sulphur, black needle antimony and dark aluminum. Formulas that may be used in a salute, report or maroon are as follows: (A) Perchlorate of potash, black needle antimony and dark aluminum, and (B) perchlorate of potash, dark aluminum and sulphur. No high explosive such as dynamite, fulminate of mercury or other stimulator for detonating shall be used in any aerial bomb or other pyrotechnics. Application for permits shall be made in writing at least fifteen days prior to the date of display, on such notice as the State Fire Marshal by regulation prescribes, on forms furnished by the State Fire Marshal, and a fee of one hundred dollars shall be payable to the

State Treasurer with each such application. After such permit has been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. Any permit issued under the provisions of this section may be suspended or revoked by the State Fire Marshal or the local fire marshal for violation by the permittee of any provision of the general statutes, any regulation or any ordinance relating to fireworks.

(c) The State Fire Marshal may grant variations or exemptions from, or approve equivalent or alternate compliance with, particular provisions of any regulation issued under the provisions of subsection (b) of this section where strict compliance with such provisions would entail practical difficulty or unnecessary hardship or is otherwise adjudged unwarranted, provided any such variation, exemption, approved equivalent or alternate compliance shall, in the opinion of the State Fire Marshal, secure the public safety and shall be made in writing.

(d) Any person, firm or corporation violating the provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than ninety days or be both fined and imprisoned, except that (1) any person, firm or corporation violating the provisions of subsection (a) of this section by offering for sale, exposing for sale or selling at retail or possessing with intent to sell any fireworks with a value exceeding ten thousand dollars shall be guilty of a class A misdemeanor, and (2) any person, firm or corporation violating any provision of subsection (b) of this section or any regulation adopted thereunder shall be guilty of a class A misdemeanor, except if death or injury results from any such violation, such person, firm or corporation shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both."

Sec. 29-362. (Formerly Sec. 29-102). Seizure and destruction of fireworks.

The State Fire Marshal or a local fire marshal shall seize, take, store, remove or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, held or kept in violation of sections 29-356 to 29-366, inclusive. When any fireworks have been seized, the superior court having jurisdiction, shall expeditiously cause to be left at the place where such fireworks were seized, if such place is a dwelling house, store, shop or other building, and also to be left with or at the usual place of abode of the person named therein as the owner or keeper of such fireworks, a summons notifying him or her and all others whom it may concern to appear before such court, at a place and time named in such notice, which time shall be not less than six nor more than twelve days after the posting and service thereof, then and there to show cause, if any, why such fireworks should not be adjudged a nuisance. Such summons shall describe such articles with reasonable certainty, and state when and where the same were seized. If any person named in such summons or any person claiming any interest in the same appears, he or she shall be made a party defendant in such case. The informing officer or the complainants may appear and prosecute such complaint and, if the court finds the allegations of such complaint to be true and that such fireworks or any of them have been kept in violation of any provision of sections 29-356 to 29-366, inclusive, judgment shall be rendered that such articles are a nuisance, and execution shall issue that the

same be destroyed together with the crates, boxes or vessels containing the same. The court shall not require storage of the fireworks pending final disposition of the case and shall order the fireworks to be destroyed upon their being inventoried, photographed and described in a sworn affidavit. Such inventory, photograph, description and sworn affidavit shall be sufficient evidence for the purposes of identification of the seized items at any subsequent court proceeding.

Sec. 29-364. (Formerly Sec. 29-104). Licenses. Denial, suspension or revocation.

No person, firm or corporation may engage in the business of manufacturer, wholesaler, dealer or jobber of fireworks, under the provisions of section 29-361, until such manufacturer, wholesaler, dealer or jobber has received a license therefor for each location where the business is to be conducted. All licenses shall be issued upon receipt of the application therefor upon license forms provided by the State Fire Marshal, which forms shall include such information as said marshal requires. The State Fire Marshal shall prescribe the number of copies of each license form to be executed and the distribution of such copies. No license shall be issued until the location has been inspected by the licensing authority and unless reasonable precautions have been taken to eliminate hazards to life and property. All licenses issued under the provisions of this section shall be used only by the person, firm or corporation to whom they are issued and shall not be transferable. The State Fire Marshal may refuse to issue such a license if the State Fire Marshal determines that the applicant has previously been convicted of a felony or misdemeanor as a result of a violation of any provision of state or federal law relating to the use, transport, sale, manufacture, storage or possession of explosives, fireworks, explosive devices, illegal drugs or controlled substances. Any license issued under the provisions of this section may be suspended or revoked by the licensing authority, after notice and opportunity for hearing, for any violation by the licensee of any provision of the general statutes or any regulation or ordinance relating to fireworks or conviction of such licensee of any felony or misdemeanor as a result of a violation of any provision of state or federal law relating to the use, transport, sale, manufacture, storage, or possession of explosives, fireworks, explosive devices, illegal drugs or controlled substances.

Sec. 29-365. (Formerly Sec. 29-105). License fees.

The fee to be paid to the licensing authority upon each application shall be as follows: For a fireworks manufacturing license, two hundred dollars; for a dealer, wholesaler and jobber, two hundred dollars. Fees collected by the State Fire Marshal shall be paid to the State Treasurer.

Model Rocketry back to DESPP

Sec. 29-367. (Formerly Sec. 29-106g). *(See end of section for amended version and effective date.) Regulation of model rocketry.

(a) The [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection shall make and enforce, and may amend, reasonable regulations concerning the safe design, construction, manufacture, testing, certification, storage, sale, shipping, operation and launching of rockets propelled by rocket motors, including, but not limited to, solid, liquid and cold propellant, hybrid, steam or pressurized liquid rocket motors. In adopting such regulations, said commissioner may be guided by recognized national standards for the prevention of injury to life and damage to property and protection of hazards incident to the design, construction, manufacture, testing, storage, sale, shipping, operation and launching of such rockets.

(b) Such regulations shall not apply to (1) the design, construction, production, fabrication, manufacture, maintenance, launching, flight, test, operation, use of, or any activity in connection with a rocket or rocket motor when carried on by or engaged in by the government of the United States or any state government, any college, university or other institution of higher learning, any individual, firm, partnership, joint venture, corporation, or other business entity engaged in research, development, production, test, maintenance, or supply of rockets, rocket motors, rocket propellants, or rocket components as a business under contract to or for the purposes of sale to any government, college, university, institution of higher learning, or other similarly engaged business entity; or (2) the design, construction, production, fabrication, manufacture, maintenance, launching, flight, test, operation, use of, or any activity in connection with rocket-propelled model aircraft which sustain themselves against gravity by aerodynamic lifting surfaces during the entire duration of their flight in the air, or to the rocket motors that provide propulsion therefor.

"Sec. 29-367. (Formerly Sec. 29-106g). Regulation of rockets.

(a) The [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection shall adopt, and may amend, reasonable regulations, in accordance with the provisions of chapter 54, concerning the safe design, construction, manufacture, testing, certification, storage, sale, shipping, operation and launching of rockets propelled by rocket motors, including, but not limited to, solid, liquid and cold propellant, hybrid, steam or pressurized liquid rocket motors. Such regulations shall be incorporated into the State Fire Prevention Code and include provisions for the prevention of injury to life and damage to property and protection of hazards incident to the design, construction, manufacture, testing, storage, sale, shipping, operation and launching of such rockets. The commissioner shall enforce such regulations.

(b) Such regulations shall not apply to (1) the design, construction, production, fabrication, manufacture, maintenance, launching, flight, test, operation, use of or any activity in connection with a rocket or rocket motor when carried on by or engaged in by the government of the United States or any state government, any college, university or other institution of higher learning, any individual, firm, partnership, joint venture, corporation or other business entity engaged in research, development, production, test, maintenance or supply of rockets, rocket motors, rocket propellants or rocket components as a business under

contract to or for the purposes of sale to any government, college, university, institution of higher learning or other similarly engaged business entity; or (2) the design, construction, production, fabrication, manufacture, maintenance, launching, flight, test, operation, use of or any activity in connection with rocket-propelled model aircraft which sustain themselves against gravity by aerodynamic lifting surfaces during the entire duration of their flight in the air, or to the rocket motors that provide propulsion therefor."

Sec. 29-369. (Formerly Sec. 29-106s). (Note: This section is repealed, effective January 1, 2013.) Appeal. Any person aggrieved by any such regulation or any act of said commissioner in enforcing the same may apply for relief to the superior court for the judicial district of Hartford or for the judicial district in which such person resides, or if such court is not in session, to any judge thereof, which court or judge may grant appropriate relief.

Demolition back to DESPP or to DCP due to licensing

Sec. 29-402. (Formerly Sec. 19-403c). License for demolition business: Application; fees; refusal or revocation. Exemptions.

(a) As used in this part, the term "license" includes the whole or part of any permit which the [Department of Construction Services] Department of Consumer Protection or the Department of Emergency Services & Public Protection issues under authority of the general statutes, and which (1) requires persons to place their names on a list maintained by the department before they can engage in the business of demolition of buildings, (2) requires a person to demonstrate competence by examination or other means, and (3) may be revoked or suspended by the department for cause.

(b) No person shall engage in the business of demolition of buildings without a license obtained from the [Department of Construction Services] Department of Emergency Services & Public Protection . An applicant for an initial license shall file an application with the Department of Construction Services, furnish evidence of expertise and financial responsibility and pay a fee of four hundred forty dollars for a class B license and nine hundred forty dollars for a class A license. Each license shall be valid for twelve months from date of issuance and shall be renewable on application of the licensee upon payment of an annual fee of two hundred fifty dollars for a class B license and seven hundred fifty dollars for a class A license. The department may refuse to issue any such license for cause, and may revoke or refuse to renew any such license for failure to carry out and conform to the provisions of this part or to any regulations adopted hereunder, or for any violation of title 22a. No person shall be refused a license or a renewal thereof, and no license shall be revoked, without an opportunity for a hearing conducted by the [Department of Construction Services] Department of Emergency Services & Public Protection in accordance with the provisions of chapter 54.

(c) The provisions of this section shall not apply to (1) a person who is engaged in the disassembling, transportation and reconstruction of historic buildings for historical purposes or in the demolition of farm buildings or in the renovation, alteration or reconstruction of a single-

family residence, (2) the removal of underground petroleum storage tanks, (3) the burning of a building or structure as part of an organized fire department training exercise, or (4) the demolition of a single-family residence or outbuilding by an owner of such structure if it does not exceed a height of thirty feet, provided (A) the owner shall be present on site while such demolition work is in progress and shall be held personally liable for any injury to individuals or damage to public or private property caused by such demolition, and (B) such demolition shall be permitted only with respect to buildings which have clearance from other structures, roads or highways equal to or greater than the height of the structure subject to demolition. The local building official may require additional clearance when deemed necessary for safety.

Sec. 29-403. (Formerly Sec. 19-403d). Appeal from decision of department.

Any person aggrieved by a decision of the [Department of Construction Services] Department of Emergency Services & Public Protection refusing to grant or renew or revoking any license as defined in section 29-402 may appeal therefrom in accordance with the provisions of section 4-183. Such appeal shall be privileged in assignment for trial.

Moving Pictures back to DESPP

Sec. 29-109. Certificates of approval. Regulations. Variations or exemptions.

(a) No moving picture projector involving the use of a photographic film shall be operated in any public building or place of public assemblage or entertainment until such precautions as the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection specifies have been taken against fire, panic or other personal hazards and a certificate of approval for such premises has been obtained from the commissioner specifying the number of persons that may be admitted to such premises or place at any one time. No moving picture film shall be used or exhibited in any premises or place mentioned herein unless such film, together with the projector and necessary accessories, is located in a room or area of such size, type and design as the commissioner specifies, and a certificate of approval has been obtained from the commissioner authorizing such use of such room or area. No person may store or use any moving picture film made of nitrocellulose or any other highly combustible material in a motion picture theater.

(b) The [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection shall adopt regulations in accordance with the provisions of chapter 54 to establish (1) requirements for the issuance of certificates of approval under the provisions of subsection (a) of this section, and (2) procedures for the operation of motion picture and projection rooms or areas, and to otherwise implement the provisions of subsection (a) of this section.

(c) The State Fire Marshal may grant variations or exemptions from, or approve equivalent or alternate compliance with, particular provisions of subsection (a) of this section or any regulation adopted under the provisions of subsection (b) of this section where strict

compliance with such provisions would entail practical difficulty or unnecessary hardship, or is otherwise adjudged unwarranted, provided any such variation, exemption or approved equivalent or alternate compliance shall, in the opinion of the State Fire Marshal, secure the public safety.

Sec. 29-117. Moving picture licenses. Fees. Penalty.

No person shall exhibit, show or use any moving picture film, reel or view in any place to which an admission fee is charged, except in a church, parish house, school or other building of a religious, ecclesiastical or educational organization in furtherance of its purposes, without a license for such purpose issued by the [Commissioner of Construction Services] Commissioner of the Department of Emergency Services & Public Protection. The commissioner, after investigation, shall issue the license required herein to any person found by him to be a suitable person, provided he shall have received a written application therefor, which application shall describe the location of the place and shall give its seating capacity and such other information as the commissioner requires. Such license shall be effective until September first next following its issuance, unless suspended or revoked for cause, and the applicant shall pay for the same and for each renewal thereof the sum of fifty dollars. When any person so licensed exhibits, shows or uses or permits to be exhibited, shown or used in any place described in such license any moving picture film, title, subtitle or part thereof, reel or view of an immoral, degrading or criminal character, or which is unlawful under the provisions of section 53a-194 or 53a-196, the commissioner may, upon complaint or upon his own motion, suspend or revoke the license of such person. No license shall be granted to any person to whom two of the licenses issued have been either suspended or revoked. Any person or the officer of any corporation, violating any provision of this section shall be fined not more than one thousand dollars or imprisoned not more than one year or both.

In addition DCS had on-going discussions with GOPM re: capitalization language to implement a “shared services” approach to the merged operations of plan reviews and site analysis now shared by DCS regulatory and technical compliance staff with the State Department of Education (SDE) Bureau of School Facilities’ Grants staff. Currently BSF staff is supported by the General Fund. Their DCS colleagues are bond funded *as permitted by bond covenant on state projects and allowed to charge some allowable personnel costs to the state project funds. If staff of the new DCS were allowed to charge some of their costs to the school construction bond funds, as is the current practice for DCS staff on capital construction projects there would be a true integration of staff.

Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

DCS1012SpecialEffects.doc

(If submitting an electronically, please label with date, agency, and title of proposal –
092611_SDE_TechRevisions)

State Agency:

Department of Construction Services

Liaison: Terrence Tulloch-Reid

Phone: (860) 713-5085

Cell: (860) 463-1825

E-mail: terrence.reid@ct.gov

Lead agency division requesting this proposal:

Bureau of Regulatory and Technical Compliance

Office of State Fire Marshal

Agency Analyst/Drafter of Proposal:

Terry Brouwer ~ Dept of Construction Services

Sgt Christopher Guari ~ Dept of Emergency Services and Public Protection

Jenna Padula

Title of Proposal

AAC Fireworks and Special Effects Before Audiences & the Relocation of Functions of the
Department of Construction & Department of Emergency Services and Public Protection

Statutory Reference

§29-357 and proposed §29-381b

Proposal Summary

This statutory proposal intends to transfer the responsibility for Fireworks and Special Effects back to the DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION (DESPP) from the DEPARTMENT OF CONSTRUCTION SERVICES. It also intends to provide a mechanism for the DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION to regulate the use of special effects created by either pyrotechnics or flame producing devices.

Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

- Reason for Proposal

Please consider the following, if applicable:

- (34) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (35) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (36) *Have certain constituencies called for this action?*
- (37) *What would happen if this was not enacted in law this session?*

Currently there is a void with respect to the regulation of flame producing devices creating special effects before an audience. This proposal intends to permit the Department of Emergency Services and Public Protection to develop regulations to provide minimum requirements to the manufacturers and operators for the safe operation of pyrotechnic and flame effects as well as license operators and provide a mechanism for requiring permits for such events. This proposal would provide a mechanism for requiring permits for such events resulting in uniform enforcement across the state.

- **Origin of Proposal** XX **New Proposal** XX **Resubmission**

If this is a resubmission, please share:

- (28) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (29) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (30) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (31) *What was the last action taken during the past legislative session?*

Section 2 of this proposal [sSB 968](#) "AA Regulating Special Effects in 2011 did not leave the Public Safety Committee after the public hearing. We believe of concern was that it was not clear that the use of minimal amounts of sparklers and flame effects as part of a ceremony would not be regulated. Examples of such ceremonies would include birthday parties and Boy Scout promotions.

Section 1 of this proposal is new given the enactment of PA 11-51 which moved the responsibility for Fireworks from the Department of Public Safety to the newly created Department of Construction Services (DESPP). The general statutes and regulations adopted pursuant to the statutes include provisions for the investigation of accidents, seizure and destruction of fireworks. Since such actions normally rely on a police officer's involvement, this function is more appropriately within the scope of the sworn contingency within DESPP.

PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: **DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION**

Agency Contact (name, title, phone): Atty Steven Spellman 860-685-8000

steven.spellman@ct.gov

Date Contacted: October 25, 2011

Approve of Proposal ☐ YES ☐ NO ☒ XX Talks Ongoing

Summary of Affected Agency's Comments

As the former Department of Public Safety (DPS), the agency proposed Section 2 of this proposal during the 2011 legislative session and thus supports Section 2. With respect to Section 1 of this proposal, we agree that the responsibility for Fireworks and Special Effects should remain with the Department of Emergency Services and Public Protection.

The implementation of this proposal can be accomplished within the current resources of the Department of Emergency Services and Public Protection, thus does not require additional positions.

Will there need to be further negotiation? ☐ YES ☒ X NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

Municipal (please include any municipal mandate that can be found within legislation)

NONE

Inspections of such facilities by the local fire marshal are already conducted pursuant to §29-305, thus the inspection needed to satisfy the proposed §29-381b would be included.

State:

Slight revenue gain based upon the collection of fees for certificates of competency and display permits for flame effects. This proposal would actually move some revenues from the current Fireworks Display revenues to these proposed Special Effects. We do anticipate a slight increase in revenues where shows utilizing only flammable gases or liquids. We could anticipate 3-4 of these types of shows per year, thus possibly an increase in revenue of \$300-400. Again with the inclusion of flammable gases and liquids, perhaps an increase of three (3) certificate holders. Their initial application fee is proposed at \$200 with and renewal every three years of \$190, thus a possible increase of revenue of \$200 per year. Currently seven (7) persons hold Special Effects certificates for the use of pyrotechnics. This number could increase to about 10 given the inclusion of flame effects using only flammable gases and liquids. Based upon the previous number of permits applications for "Special Effects" of about 30 that is currently experienced under the current regulation of fireworks, we expect only a few more shows where only flame effects are utilized.

Federal

NONE
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Sections 1 to 6 transfer duties that relate to the regulation of fireworks from the Department of Construction Services to the Department of Emergency Services and Public Protection. The regulation of fireworks was the responsibility of the former Department of Public Safety. Currently, the Department of Emergency Services and Public Protection is undertaking these responsibilities under a Memorandum of Understanding.

Section 7 requires the Commissioner of Emergency Services and Public Protection to adopt regulations that set forth a permit process for special effects, both indoor and outdoor displays. This section closely mirrors Section 29-357 (Section 1 of this bill). Section 29-357 sets forth policies for the regulation of fireworks, specifically large outdoor displays at which the audience would be more than 300 feet away. Currently, this section also includes the regulation of the indoor use of certain pyrotechnics for special effects. The intent, down the road, (once the regulations under Section 7 are adopted) would be to delete the special effects from this section and leave the new Section 7 to regulate both indoor and outdoor special effects.

Historical background

OSFM staff provided that there was a question about sparklers on birthday cakes and other minor use of pyrotechnics as special effects and whether a permit would be needed for these types of uses. The insertion of "Such regulations shall not apply to ceremonial activities that include a minimal use of sparklers or special effects" in subsection (a) of section 7 is in response to that concern.

AAC Fireworks and Special Effects Before Audiences and the Relocation of Functions of the Department of Construction Services to the Department of Emergency Services and Public Protection

Section 1. Section 29-357 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

(a) Except as provided in subsection (b) of this section, no person, firm or corporation shall offer for sale, expose for sale, sell at retail or use or explode or possess with intent to sell, use or

explode any fireworks. A person who is sixteen years of age or older may offer for sale, expose for sale, sell at retail, purchase, use or possess with intent to sell or use sparklers or fountains of not more than one hundred grams of pyrotechnic mixture per item, which are nonexplosive and nonaerial, provided (1) such sparklers and fountains do not contain magnesium, except for magnalium or magnesium-aluminum alloy, (2) such sparklers and fountains containing any chlorate or perchlorate salts do not exceed five grams of composition per item, and (3) when more than one fountain is mounted on a common base, the total pyrotechnic composition does not exceed two hundred grams.

(b) The [State Fire Marshal] Commissioner of Emergency Services and Public Protection shall adopt reasonable regulations, in accordance with chapter 54, for the granting of permits for supervised displays of fireworks or for the indoor use of pyrotechnics, sparklers and fountains for special effects by municipalities, fair associations, amusement parks, other organizations or groups of individuals or artisans in pursuit of their trade. Such permit may be issued upon application to said [State Fire Marshal] Commissioner of Emergency Services and Public Protection and after (1) inspection of the site of such display or use by the local fire marshal to determine compliance with the requirements of such regulations, and (2) approval of the chiefs of the police and fire departments, or, if there is no police or fire department, of the first selectman, of the municipality wherein the display is to be held as is provided in this section. No such display shall be handled or fired by any person until such person has been granted a certificate of competency by the [State Fire Marshal] Commissioner of Emergency Services and Public Protection, in respect to which a fee of two hundred dollars shall be payable to the State Treasurer when issued and which may be renewed every three years upon payment of a fee of one hundred ninety dollars to the State Treasurer, provided such certificate may be suspended or revoked by said marshal at any time for cause. Such certificate of competency shall attest to the fact that such operator is competent to fire a display. Such display shall be of such a character and so located, discharged or fired as in the opinion of the chiefs of the police and fire departments or such selectman, after proper inspection, will not be hazardous to property or endanger any person or persons. In an aerial bomb, no salute, report or maroon may be used that is composed of a formula of chlorate of potash, sulphur, black needle antimony and dark aluminum. Formulas that may be used in a salute, report or maroon are as follows: (A) Perchlorate of potash, black needle antimony and dark aluminum, and (B) perchlorate of potash, dark aluminum and sulphur. No high explosive such as dynamite, fulminate of mercury or other stimulator for detonating shall be used in any aerial bomb or other pyrotechnics. Application for permits shall be made in writing at least fifteen days prior to the date of display, on such notice as the [State Fire Marshal] Commissioner of Emergency Services and Public Protection by regulation prescribes, on forms furnished by the [State Fire Marshal] Commissioner of Emergency Services and Public Protection, and a fee of one hundred dollars shall be payable to the State Treasurer with each such application. After such permit has been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. Any permit issued under the provisions of this section may be suspended or revoked by the [State Fire Marshal] Commissioner of Emergency Services and Public Protection or the local fire marshal for violation by the permittee of any provision of the general statutes, any regulation or any ordinance relating to fireworks.

(c) The [State Fire Marshal] Commissioner of Emergency Services and Public Protection may grant variations or exemptions from, or approve equivalent or alternate compliance with, particular provisions of any regulation issued under the provisions of subsection (b) of this section where strict compliance with such provisions would entail practical difficulty or unnecessary hardship or is otherwise adjudged unwarranted, provided any such variation, exemption, approved equivalent or alternate compliance shall, in the opinion of the [State Fire Marshal] Commissioner of Emergency Services and Public Protection, secure the public safety and shall be made in writing.

(d) Any person, firm or corporation violating the provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than ninety days or be both fined and imprisoned, except that (1) any person, firm or corporation violating the provisions of subsection (a) of this section by offering for sale, exposing for sale or selling at retail or possessing with intent to sell any fireworks with a value exceeding ten thousand dollars shall be guilty of a class A misdemeanor, and (2) any person, firm or corporation violating any provision of subsection (b) of this section or any regulation adopted thereunder shall be guilty of a class A misdemeanor, except if death or injury results from any such violation, such person, firm or corporation shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

Sec. 2. Section 29-359 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

(a) Before any person, firm or corporation or any agent or employee thereof may conduct a fireworks display or use pyrotechnics for indoor special effects, such person, firm or corporation shall furnish proof of financial responsibility to satisfy claims for damages on account of any physical injury or property damage which may be suffered by any person by reason of any act or omission on the part of such person, firm or corporation, any agent or employee thereof, any independent contractor firing the display or using such pyrotechnics, any fair or exposition association, any sponsoring organization or committee, any owner or lessee of any premises used by the named insured and any public authority granting a permit to the named insured, in the form of a liability insurance policy evidenced by a certificate of insurance filed with the Insurance Commissioner at least fifteen days prior to the date of display or use and acceptable to the commissioner. Such policy shall cover public liability arising out of the operation of the fireworks display or from the use of pyrotechnics for special effects in the minimum amount of one million dollars per accident for bodily injury and property damage, and shall not limit coverage within the applicable statutory period of covered liability. The insurer issuing such policy shall agree in writing to deliver to the Insurance Commissioner not less than ten days' written notice of any cancellation of such insurance which is to become effective prior to the termination of the display or use.

(b) The Commissioner of [Construction Services] Emergency Services and Public Protection shall adopt regulations in accordance with the provisions of chapter 54 defining the term "pyrotechnics" for purposes of subsection (a) of this section.

Sec. 3. Section 29-361 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

Nothing in sections 29-356 to 29-366, inclusive, shall be construed to prohibit the sale by any resident manufacturer, wholesaler, dealer or jobber, at wholesale, of such fireworks as are not herein prohibited, or the sale of any kind of fireworks, provided the same are to be shipped directly out of state, in accordance with United States Department of Transportation regulations covering the transportation of explosives and other dangerous articles by motor, rail and water; or the possession, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, or of illuminating devices for photographic use, or of illuminating torches for parades or ceremonial events, nor shall the provisions of said sections apply to the military or naval forces of the United States or the armed forces of the state, or to peace officers in the performance of their official duties, nor prohibit the sale or use of blank cartridges for ceremonial, theatrical or athletic events or for training dogs, or the use of fireworks solely for agricultural purposes under conditions approved by the local fire marshal or [State Fire Marshal] the Commissioner of Emergency Services and Public Protection.

Sec. 4. Section 29-362 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

The [State Fire Marshal] Commissioner of Emergency Services and Public Protection or a local fire marshal shall seize, take, store, remove or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, held or kept in violation of sections 29-356 to 29-366, inclusive, as amended by this act. When any fireworks have been seized, the superior court having jurisdiction, shall expeditiously cause to be left at the place where such fireworks were seized, if such place is a dwelling house, store, shop or other building, and also to be left with or at the usual place of abode of the person named therein as the owner or keeper of such fireworks, a summons notifying him or her and all others whom it may concern to appear before such court, at a place and time named in such notice, which time shall be not less than six nor more than twelve days after the posting and service thereof, then and there to show cause, if any, why such fireworks should not be adjudged a nuisance. Such summons shall describe such articles with reasonable certainty, and state when and where the same were seized. If any person named in such summons or any person claiming any interest in the same appears, he or she shall be made a party defendant in such case. The informing officer or the complainants may appear and prosecute such complaint and, if the court finds the allegations of such complaint to be true and that such fireworks or any of them have been kept in violation of any provision of sections 29-356 to 29-366, inclusive, as amended by this act, judgment shall be rendered that such articles are a nuisance, and execution shall issue that the same be destroyed together with the crates, boxes or vessels containing the same. The court shall not require storage of the fireworks pending final disposition of the case and shall order the fireworks to be destroyed upon their being inventoried, photographed and described in a sworn affidavit. Such inventory, photograph, description and sworn affidavit shall be sufficient evidence for the purposes of identification of the seized items at any subsequent court proceeding.

Sec. 5. Section 29-364 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

No person, firm or corporation may engage in the business of manufacturer, wholesaler, dealer or jobber of fireworks, under the provisions of section 29-361, as amended by this act, until such manufacturer, wholesaler, dealer or jobber has received a license therefor for each location where the business is to be conducted. All licenses shall be issued upon receipt of the application therefor upon license forms provided by the [State Fire Marshal] Commissioner of Emergency Services and Public Protection, which forms shall include such information as said marshal requires. The [State Fire Marshal] Commissioner of Emergency Services and Public Protection shall prescribe the number of copies of each license form to be executed and the distribution of such copies. No license shall be issued until the location has been inspected by the licensing authority and unless reasonable precautions have been taken to eliminate hazards to life and property. All licenses issued under the provisions of this section shall be used only by the person, firm or corporation to whom they are issued and shall not be transferable. The [State Fire Marshal] Commissioner of Emergency Services and Public Protection may refuse to issue such a license if the [State Fire Marshal] Commissioner of Emergency Services and Public Protection determines that the applicant has previously been convicted of a felony or misdemeanor as a result of a violation of any provision of state or federal law relating to the use, transport, sale, manufacture, storage or possession of explosives, fireworks, explosive devices, illegal drugs or controlled substances. Any license issued under the provisions of this section may be suspended or revoked by the licensing authority, after notice and opportunity for hearing, for any violation by the licensee of any provision of the general statutes or any regulation or ordinance relating to fireworks or conviction of such licensee of any felony or misdemeanor as a result of a violation of any provision of state or federal law relating to the use, transport, sale, manufacture, storage, or possession of explosives, fireworks, explosive devices, illegal drugs or controlled substances.

Sec. 6. Section 29-365 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

The fee to be paid to the licensing authority upon each application shall be as follows: For a fireworks manufacturing license, two hundred dollars; for a dealer, wholesaler and jobber, two hundred dollars. Fees collected by the [State Fire Marshal] Commissioner of Emergency Services and Public Protection shall be paid to the State Treasurer.

Sec. 7. (NEW) (Effective July 1, 2013): (a) The Commissioner of Emergency Services and Public Protection shall adopt regulations, in accordance with the provisions of chapter 54, for the granting of permits and approval for supervised display of special effects by municipalities, fair associations, amusement parks, other organizations or groups of individuals or artisans in pursuit of their trade. Such special effects shall include those produced by pyrotechnics as described in section 29-357 of the Connecticut General Statutes, as amended by this act, including sparklers and fountains, and flame producing devices before audiences at indoor or outdoor venues. Such regulations shall also contain provisions for determining the competency of those persons to fire such special effects. Such regulations shall not apply to ceremonial activities that include a minimal use of sparklers or flame effects.

(b) (1) Permits for the display of special effects may be issued upon application to said commissioner and after (1) inspection of the site of such use by the local fire marshal to determine compliance with the requirements of such regulations and (2) endorsement of the chiefs of the police and fire departments, or, if there is no police or fire department, of the first selectman, of the municipality wherein the display is to be held as is provided in this section. Such display shall be of such a character and so located, discharged or fired as in the opinion of the chiefs of the police and fire departments or such selectman, after proper inspection, will not be hazardous to property or endanger any person or persons.

(2) Application for permits shall be made in writing at least fifteen days prior to the date of display, or such notice as the commissioner by regulation prescribes, on forms furnished by the commissioner, and a fee of one hundred dollars shall be payable to the State Treasurer with each such application. After such permit has been granted, the possession of pyrotechnics and use of such special effects for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. Any permit issued under the provisions of this section may be suspended or revoked by the commissioner or the local fire marshal for violation by the permittee of any provision of the general statutes, any regulation or any ordinance relating to special effects.

(c) No such special effect shall be handled or fired by any person unless under the supervision of a person who has been granted a certificate of competency for special effects by the commissioner, in respect to which a fee of two hundred dollars shall be payable to the State Treasurer when issued and which may be renewed every three years upon payment of a fee of one hundred ninety dollars to the State Treasurer. Such certificate of competency shall attest to the fact that such person is competent to supervise the operation and firing of such special effects. The commissioner may suspend or revoke such certification at any time for cause. No certificate granted hereunder shall be transferable.

(d) The commissioner may grant, in writing, variations or exemptions from, or approve equivalent or alternate compliance with, particular provisions of any regulation issued under the provisions of subsection (a) of this section where strict compliance with such provisions would entail practical difficulty or unnecessary hardship or is otherwise adjudged unwarranted, provided any such variation, exemption, approved equivalent or alternate compliance shall, in the opinion of the commissioner, secure the public safety.

(e) Any person, firm or corporation violating the provisions of subsection (a) shall be guilty of a class C misdemeanor, and any person, firm or corporation violating any provision of subsection (b) or (c) of this section or any regulation adopted thereunder shall be guilty of a class A misdemeanor, except if death or injury results from any such violation, such person, firm or corporation shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

